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THE NATIONAL TRUST LAW (22 OF 1987)

(1997 Revision)

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted (as the National Trust for the Cayman Islands Law, 1987)-

Law 22 of 1987-14th September, 1987

Revised this 9th day of September, 1997.

NATIONAL TRUST LAW

(1997 Revision)

ARRANGEMENT OF SECTIONS

1. Short title
2. Definitions
3. Establishment of Trust
4. Purposes and powers of Trust
5. Council
6. Authentication of documents
7. Income of Trust
8. Regulation of procedure
9. Accounts
10. General meetings
11. Annual report
12. District Committees
13. Power to enter into agreements restricting use of land
14. Exemption from stamp duty
15. Power of Governor to grant property to the Trust
16. Bye-laws
17. Removal of persons
18. Offences
19. Regulations
20. Penalties
21. Inalienable property
22. Failure of the Trust

NATIONAL TRUST LAW

(1997 Revision)

1. This Law may be cited as the National Trust Law (1997 Revision).

Short title

2. In this Law -

Definitions

“chairman” means the chairman of the Trust elected under section 5(3);

“Council” means the Council of the Trust constituted under section 5;

“District Committee” means a District Committee established under section 12;

“general meeting” means a general meeting of the members of the Trust held in accordance with section 10;

“Governor” means the Governor in Council;

“secretary” means the secretary of the Trust elected under section 5(3);

“Trust” means the National Trust established by section 3(1); and

“Trust property” means the property held by the Trust.

3. There is established a body corporate called the National Trust for the Cayman Islands which shall have perpetual succession and a common seal, and for the purpose of carrying out its functions under this Law may buy, lease, sell, hold, deal and otherwise acquire and dispose of property of whatsoever nature, enter into contracts of any nature, raise loans, and sue and be sued in its corporate name.

Establishment of Trust

4. (1) The purposes of the Trust are-

Purposes and power of trust

- (a) the preservation of the historic, natural and maritime heritage of the Islands through the preservation of areas, sites, buildings, structures and objects of historic or cultural significance;
- (b) the conservation of lands, natural features and submarine areas of beauty, historic or environmental importance which the Trust may have acquired through gift, bequest, purchase, lease or other means; and
- (c) the protection of native flora and fauna.

(2) The Trust has the power to carry out the following activities -

- (a) the identification, investigation, classification, protection and preservation of any place, building, area of beauty, or of historic, cultural or environmental significance and the creation and maintenance of a Heritage Register thereof;
- (b) the acquisition of any property by gift, bequest, purchase, lease or other means and the maintenance, sale or leasing of any such land or thing;
- (c) the provision of access for the public to Trust property, the regulation of the conduct of the public thereon and the charging of a fee for such access:
Provided that different provisions may be made for different Trust property;
- (d) the engagement in programmes for the preservation and propagation of wildlife;
- (e) the raising of funds for the furtherance of the purposes of the Trust and the investment of such funds;
- (f) the provision of information, advice and assistance to the Government and other appropriate persons or bodies for the furtherance of the purposes of the Trust;
- (g) the fostering of public interest in the purposes of the Trust through public information and public education;
- (h) the management and control over such submarine property as may be granted to the Trust by the Governor; and
- (i) such other activities as are necessary for the purposes of the Trust.

Council

5. (1) There is established a Council which shall manage the affairs of the Trust, subject to this Law, and which, without prejudice to the generality of the foregoing, shall control the income, capital, funds and Trust property and govern, direct and decide all matters connected with the appointment of officers, servants and agents of the Trust and with the administration of the affairs and the accomplishment of all the powers and general purposes of the Trust.

(2) It shall be the responsibility of the Council to further the purposes of the Trust, and they shall have such powers as are necessary to do so, including -

- (a) the dissemination of information about the Trust;
- (b) the recruitment of membership of the Trust, in whatever categories it shall consider desirable, and the fixing of fees in respect of such membership;
- (c) the raising of funds by whatever means they shall consider desirable for the purposes of the Trust;

- (d) the establishment of District Committees, and of such other committees for such purposes as they shall consider desirable; and
 - (e) the provision of assistance to the Government and other persons in furtherance of the purposes of the Trust.
- (3) The Council shall consist of the following members -
- (a) the chairman, vice-chairman, secretary, treasurer and nine members who shall be elected at the annual general meeting for such term as shall be established under bye-laws made under section 16;
 - (b) three members appointed by the Governor, one each nominated by the Ministries responsible for Natural Resources, Education and Tourism matters, who shall hold office at the pleasure of the Governor; and
 - (c) the seven persons being the chairmen of the District Committees.
- (4) The Council shall appoint a legal advisor, on an annual basis, who shall have all the rights and responsibilities of a member of the Council.
- (5) The Council may co-opt such persons as it considers necessary to be additional members of the Council, but such persons shall not have the right to vote at meetings of the Council.
- (6) In the case of absence or incapacity of any officer, the Council may appoint another member of the Council to perform the duties of such officer during his absence or incapacity.
- (7) The Council may, in writing, delegate any of its powers under this Law.
- (8) Any vacancy occurring among any of the members elected under paragraph (a) of subsection (3) shall be filled by the Council making a temporary appointment which shall last until the next general meeting.
- (9) No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the discharge of the functions of the Council.
- (10) No act or other proceeding of the Council shall be invalid or affected by reason of the fact that there is some defect in the appointment of a person purporting to be a member of the Council, in the manner of election of such a person or by any vacancy amongst its members.

Authentication of documents	<p>6. (1) All deeds, documents and other instruments requiring the seal of the Trust shall be sealed with the common seal of the Trust in the presence of the chairman and either the secretary or of a person authorised in that behalf by the Council, who shall sign every such deed, document or other instrument to which the common seal is affixed. Such signing shall be sufficient evidence that the common seal was duly and properly affixed, and that the same is the lawful seal of the Trust. The common seal shall be judicially noted.</p> <p>(2) Any document not required to be under seal shall be signed by the chairman, secretary or such other person as the Council may appoint either generally or for a specific document.</p> <p>(3) Any resolution or decision of the Council or minute thereof, purporting to be signed by the chairman or secretary, shall be <i>prima facie</i> evidence of the official status of the party signing the same, and also of the facts therein stated, in all Courts of the Islands and for all other purposes.</p>
Income of trust	<p>7. The income of the Trust shall be wholly applied towards discharging the functions of and furthering the purposes of the Trust.</p>
Regulation of procedures	<p>8. Subject to this Law and to bye-laws made under section 16, the Council has the power in all respects to regulate its own respective procedure, including the manner in which matters subject to determination are to be determined.</p>
Accounts	<p>9. (1) The Trust shall keep proper accounts, in a form which shall conform with the best commercial standards, of its receipts, payments, assets and liabilities.</p> <p>(2) The accounts of the Trust shall be audited annually by an accountant qualified to practise in the Islands, and the officers, employees and members of the Trust shall grant to the person conducting such audit access to all the books, documents, cash and securities of the Trust, and shall give to him, on request, all such information as shall be within their knowledge in relation to the operation of the Trust, and a copy of the report of the auditor shall be laid on the table of the Legislative Assembly simultaneously with the Annual Report referred to in section 11.</p>
General meetings	<p>10. Annual general meetings of the Trust shall be held once in each year, at such times as the Council considers necessary, and on the requisition of such number of members as is laid down in the bye-laws.</p>
Annual report	<p>11. (1) The Council shall, within three months of the end of each financial year as defined in the bye-laws, prepare and present to the annual general</p>

meeting, a report of its proceedings during that year, together with a complete statement of its financial position and its accounts.

(2) The Council shall forward copies of such report, statement and accounts to the Governor and to the Honourable Minister of Executive Council responsible for this subject who shall cause it to be laid on the table of the Legislative Assembly as soon as possible.

12. (1) There are established seven District Committees, one each for the electoral districts of Bodden Town, East End, George Town, North Side and West Bay as defined in the First Schedule to the Elections Law (1995 Revision), one for the island of Cayman Brac and one for the island of Little Cayman.

District Committees

1995 Revision

(2) Each District Committee shall elect a chairman each year at its annual meeting who shall hold office until the next annual meeting. Each District Committee shall also elect an Executive Committee in accordance with bye-laws made under section 16. In the event that any Chairman is unable to complete his term of office, the Executive Committee for that District shall choose a replacement until the next annual meeting.

(3) Each District Committee shall hold at least one general meeting of its membership each year, more than three weeks prior to the annual general meeting of the Trust at which the chairman for the following year shall be elected.

13. Where any person is willing to agree with the Trust that any land shall, so far as his interest therein enables him to bind it, be made subject, either permanently or for a specified period, to an easement or to conditions restricting the planning, development or use thereof in any manner, the Trust may enter into an agreement with him or accept a covenant from him to that effect and shall, notwithstanding any other law or the common law applicable in the Islands, have power to enforce such agreement or covenant against persons deriving title under him in the like manner and to the like extent as if the Trust were possessed of, entitled to or interested in adjacent land as if the agreement or covenant had been and had expressed to be entered into for the benefit of that adjacent land.

Power to enter into agreements restricting use of land

14. Any transaction involving the Trust shall be exempt from the payment of any stamp duty under the Stamp Duty Law (1995 Revision) for which, but for this section, stamp duty would be payable.

Exemption from stamp duty

1995 Revision

15. The Governor may grant to the Trust any land or interest in land over which he has the power of disposition as he may deem fit, and may grant to the Trust control over submarine areas, including control over access to any such area, activities within such area, and any other form of control as he may deem fit.

Power of Governor to grant property to the Trust

- Bye-laws
16. (1) The Council, with the approval of the Governor, may make bye-laws for -
- (a) the regulation of its proceedings, establishing a quorum for meetings of the Council and the Trust, the calling of meetings of the Council and the Trust, the voting of the members of the Council and the procedure for the transaction of business at meetings of the Council and the Trust;
 - (b) the appointment of such committees and sub-committees as it shall consider necessary, and the delegation to such committees and sub-committees of the powers and duties of the Council;
 - (c) the appointment of officers, agents and employees of the Trust, and the allocation of duties to and powers of such persons;
 - (d) the keeping and presentation of accounts;
 - (e) the establishment of the membership of District Committees, the responsibilities of the District Committees, the regulation of proceedings, the calling of meetings, the voting of members, the appointment of chairmen, the procedure for the transaction of business and the keeping of records of such Committees;
 - (f) prescribing the rights and privileges of members of the Trust;
 - (g) regulating the use of the facilities of the Trust by members of the Trust and the public;
 - (h) the categories of membership of the Trust and the fees payable in respect of such membership;
 - (i) the creation and maintenance of a Heritage Register;
 - (j) the adoption of a logo; and
 - (k) generally for the conduct and management of its activities and for carrying this Law into effect.
- (2) Copies of bye-laws made under subsection (1) shall be published in the Official Gazette.

Removal of persons

17. Notwithstanding any other provision of this Law, officers, employees and agents of the Trust may, within any land being Trust property, require to leave the property any person who contravenes or is suspected of contravening or having contravened this Law or any regulations or bye-laws made hereunder.

- Offences
18. Whoever-
- (a) takes or attempts to take any wildlife, either flora or fauna, on Trust property;
 - (b) starts any fire on Trust property, except in any area where, under the bye-laws of the Trust, fires are permitted;
 - (c) removes any artifact from any Trust property;

- (d) defaces any Trust property; or
- (e) refuses to leave Trust property when required to do so by an officer, employee or agent of the Trust under section 17,

is guilty of an offence.

19. The Governor may, upon the recommendation of the Trust Council, make regulations creating further offences for actions which harm Trust property or otherwise contravene the purposes of the Trust. Regulations

20. Whoever is convicted of an offence under this Law or any regulations made thereunder, is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year. Penalties

21. (1) Any property acquired by the Trust by any means which is eligible for placement on the Heritage Register under the bye-laws of the Trust may be declared inalienable by the Council. Inalienable property

(2) Property which has been declared inalienable by the Council may be alienated only after a two-thirds vote of the full membership of the Trust at a general meeting, and only for the reason that so doing will further the purposes of the Trust.

22. (1) If the Trust Council finds that, for financial or other reasons, continued operation of the Trust is no longer feasible, it may voluntarily wind up the affairs of the Trust. Failure of the Trust

(2) If events occur concerning the Trust which, if it were a limited company formed and registered under the Companies Law (1995 Revision) would enable the Grand Court to wind it up under section 93 of that law, the Financial Secretary may apply to the Grand Court to wind up the Trust. 1995 Revision

- (3) If the affairs of the Trust are wound up under subsection (1) or (2) -
- (a) that property which has been declared inalienable by the Trust Council shall vest in the Financial Secretary to be held for the public enjoyment, and shall be subject to the disposition of the Governor:
Provided that it may only be transferred to another body or organisation with the same or similar purposes as the Trust, to be held for the public enjoyment and benefit; and
 - (b) the property which has not been declared inalienable shall be disposed of by the Court for the benefit of the creditors, with any

surplus vesting in the Financial Secretary for the purpose of maintaining the inalienable properties.

Publication in revised form authorised by the Governor in Council this 9th day of September, 1997.

Carmena H. Parsons
Clerk of Executive Council