

CHAPTER 204

THE NATIONAL ARTS COUNCIL ACT

[PRINCIPAL LEGISLATION]

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SCHEDULE

CHAPTER 204

THE NATIONAL ARTS COUNCIL ACT

An Act to reconstitute the National Arts Council by amalgamation of the National Arts Council and the National Music Council and to provide for related matters.

[31st March, 1984]

[Act No. 11 of 1988]

[s. 4]

Acts Nos.
23 of 1984
12 of 2019

Short title

1. This Act may be cited as the National Arts Council Act.

Interpretation
Act No.
12 of 2019 s. 17

2. In this Act, unless the context requires otherwise-

“art” means any work through which a person uses skills to express ideas in making, showing or performing artistic works;

“artist” means a person engaged in or undertaking artistic works;

“artistic work” means a work, irrespective of its artistic quality, of any of the following descriptions-

(a) art and crafts, which include-

(i) paintings, drawings, graphic designs, etchings, lithographs, woodcuts, engravings, computer aided animations and prints;

(ii) maps, plans, illustration and diagrams;

(iii) works of sculpture;

(iv) photographs not comprised in a cinematograph film;

(v) works of architecture in the form of buildings or models;

(vi) works of artistic craftsmanship, and also includes pictorial woven tissues and articles of applied handicraft and industrial art;

- (vii) modeling, pageanttries, fashion designs and such related works;
 - (b) music which may be vocal, instrumental, recorded or written composition and which includes jazz bands, taarab music, choir, orchestral brass music, folk music, musical repertoire, dancing, opera or playwriting;
 - (c) theatre and drama, which consists of stage craft and design, costume design, playwriting, music composition, make up ornamentations and accessories, dance and choreography, audiovisual effects, circus, mime and acrobatic performances;
- “Council” means the National Arts Council established by section 3;
- “financial year of the Council” means a year commencing on the first day of July and ending on the next following thirtieth day of June;
- “infrastructure” includes theatre halls, open or closed premises used for demonstration of artistic works save for cinematograph;
- “member” in relation to the Council, means a member of the Council and includes the Chairman and the Vice-Chairman;
- “Minister” means the Minister responsible for matters relating to national culture; and
- “Secretary” means Secretary of the Council, appointed under section 6.

Establishment of
Council
Act No.
12 of 2019 s. 18

- 3.–(1)** There is established a body to be known as the National Arts Council which shall be a body corporate and shall-
- (a) have perpetual succession and an official seal;
 - (b) in its corporate name be capable of suing and being sued; and
 - (c) be capable of holding, purchasing and otherwise acquiring, and disposing of any property, movable or immovable for purposes of carrying out the functions conferred on the Council by this Act.

(2) The provisions of the Schedule to this Act shall have effect as to the constitution and proceedings of, and in relation to, the Council.

(3) Except in the case of matters relating to the office and appointment of the Chairman and the Secretary of the Council, the Minister may, by order published in the *Gazette*, amend, add to, vary or replace any of the provisions of the Schedule to this Act.

(4) The Council may, in consultation with other relevant authorities, appoint committees at regional and district levels.

(5) The Council may make rules for the operations and governance of such committees as it deems fit.

Functions of
Council
Act No.
12 of 2019 s. 19

4.-(1) The functions of the Council shall be-

- (a) to assume responsibility for the revival and to promote the development and production of artistic works including the production and use of indigenous and additional musical instruments, songs, poetry and traditional dancing with a view to reviving and promoting Tanzania culture;
- (b) to carry out research in the development and production of artistic works and marketing of such works, including the standard and quantity of artistic works produced in Tanzania;
- (c) to provide advisory services and technical assistance necessary for or incidental to the proper development of enterprises for the production of artistic works to parastatal organisations and other persons engaged in such enterprises;
- (d) to plan, monitor, regulate, assess and co-ordinate the activities of persons engaged in the production of artistic works in Tanzania;
- (e) to advise the Government on all matters relating to policies, legislation, marketing, development and production of artistic works in Tanzania;
- (f) to provide and promote training facilities for persons engaged in or employed or to be employed in enterprises for the production of artistic works;

- (g) to undertake or assist any institution or person in the undertaking of production, importation, exportation and sale of artistic works for any matter appertaining to artistic works;
- (h) to stimulate the development of artistic works by preparing and arranging exhibitions, displays, performances, workshops, seminars and competitions between different artists;
- (i) to provide by-laws published in the *Gazette* and in such manner as the Council may approve, a system of registration of artists, artistic ensembles, associations or organisations, infrastructure used for artistic entertainment and performance, vendors and all persons engaged or otherwise uses for gain the works of art;
- (j) to make, publish and disseminate information and guidelines relating to the revival, promotion, development, production and marketing of artistic works;
- (k) to establish, compile and maintain databases including database of persons, organisations, institutions, equipment and facilities connected with the works of arts;
- (l) to promote adherence with Tanzania's cultural, moral and ethical values among artists and other persons involved in the production, performance, distribution or exhibition of artistic works within the purpose of this Act;
- (m) to promote formation of associations or organisations with a view to encourage growth of smaller groups of persons engaging in artistic works in Tanzania;
- (n) to assist any artist or group of persons who are citizens of Tanzania in obtaining relevant training or study tour on arts or artistic skills within or outside Tanzania;
- (o) to raise, maintain or otherwise administer funds from such sources and by such means as the Minister may

approve to enable the Council to carry out its functions and empowering the artists in carrying out their artistic activities;

- (p) to exercise disciplinary powers over persons or group of persons, organisations, associations or owners of infrastructures engaged in artistic works who contravene the provisions of this Act; and
- (q) to perform such other functions as may be assigned by the Minister or prescribed to it under the provisions of this Act and other written laws.

(2) The Council shall have the power in its capacity as a body corporate, for the purpose of carrying out its functions to rate, inspect, seize, suspend or destroy any work of art being produced, displayed or kept in contravention of the Act and other relevant laws or do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of its functions or incidental or conducive to their proper discharge and may carry on any activity in that behalf either alone or in association with any other person or body whether within or outside the United Republic.

(3) The Minister may give the Council directions of a general or a specific character and the Council shall give effect to every such direction.

Registration of
artistic works
Act No.
12 of 2019 s. 20

5.—(1) The Minister may make specific regulations prescribing the manner of registration of artistic works, artists, artistic ensembles, associations, organisations, infrastructures as well as grounds for the refusal of registration, exemption from registration and cancellation of registration.

(2) An artist, artistic ensembles, associations, organisations or owners of infrastructures who engages in any artistic activity without being registered by the Council commits a disciplinary offence and upon determination by a competent disciplinary organ formed under this Act shall be liable to a fine not exceeding one million shillings or any other penalty as prescribed in the respective rules made under this Act.

[s. 4A]

Secretary to
Council

6.—(1) There shall be a Secretary of the Council who shall be appointed by the President.

(2) The Secretary shall be the Chief Executive Officer of the Council and shall carry out all the day to day activities of the Council.

(3) In the exercise of the powers vested in him by this section or delegated to him by the Council, the Secretary shall comply with any direction or policy given to him by the Minister or the Council.

[s. 5]

Appointment of
other staff

7. The Council may appoint on such terms and conditions such number of officers and servants for carrying out its functions under this Act.

[s. 6]

Funds of Council

8. The funds and resources of the Council shall consist of-

- (a) such sums as may be provided by Parliament;
- (b) any loan granted to the Council by the Government or any other person with the approval of the Minister;
- (c) any sums or property which may in any manner become payable to or vested in the Council in respect of any matter incidental to the carrying out of its functions; and
- (d) any sums or property which may be donated to the Council:

Provided that, the Council shall not be obliged to accept a donation for a particular purpose unless it approves the terms and conditions attached to the donation.

[s. 7]

Investment
Cap. 53

9. With the prior approval of the Minister, the Council may invest any part of its funds as are not for the time being required for the purposes of its business in any investment authorised by the Trustee Investment Act, for the investment of any trust fund.

[s. 8]

Accounts and
audit

10.—(1) The Council shall cause to be provided and kept proper books of accounts and records with respect to-

- (a) the receipt and expenditure of moneys by, and other financial transactions of the Council;
- (b) the assets and liabilities of the Council, and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the Council and all its assets and liabilities.

(2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Council in respect of that financial year shall be audited by the Controller and Auditor-General.

(3) Every audited balance sheet shall be placed before a meeting of the Council and, if adopted by the Council, shall be endorsed with the certificate that it has been adopted.

[s. 9]

Annual statement
on accounts
and report to
be submitted to
Minister

11. The Council shall, within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operations of the Council during that year and accompanied by-

- (a) a copy of the audited accounts of the Council;
- (b) a copy of the auditors report on the accounts; and
- (c) such other information as the Minister may direct.

[s. 10]

Annual statement
and report to
be laid before
National
Assembly

12. The Minister shall, as soon as practicable and in any case not later than eight months after the close of a financial year or such longer period as the National Assembly may, by resolution approved in that behalf, lay before the National Assembly the following documents in relation to that financial year-

- (a) a copy of the audited statement of accounts of the Council;
- (b) a copy of the auditors report, if any; and
- (c) a copy of the report by the Council.

[s. 11]

Execution of documents

13.—(1) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Council—

- (a) if sealed with the seal of the Council and signed by the Secretary and the Chairman of the Council; or
- (b) if executed in that behalf by one member of the Council and a member of the staff of the Council both of whom have been appointed by the Council for that purpose.

(2) A deed, instrument, contract or other document executed in accordance with subsection (1) shall, subject to any exception that may be taken thereto on any ground other than that of competence of the party executing the same on behalf of the Council, bind the Council and its successors and may be varied or discharged in like manner as that in which it was executed.

[s. 12]

Remuneration of members of Council

14. The members of the Council shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon recommendation of the Council, prescribe:

Provided that, no remuneration, fees or allowances, except such allowances for expenses as may be expressly authorised by the Minister shall be paid to any member of the Council who is a public officer.

[s. 13]

Delegation of powers by Council

15.—(1) Subject to the provisions of section 7, the Council may, by writing under the official seal of the Council appoint committees of the Council and may delegate, subject to such terms, conditions and restrictions as it may specify, to any committee of the Council or to any employee of the Council, all or any of the functions, powers and duties conferred or imposed by or under this Act on the Council, and where any delegation is so made the delegated function, power or duty may be performed or exercised by the delegate subject to the terms, conditions and restrictions specified by the Council.

(2) A delegation made under this section shall not prevent the Council from itself performing or exercising any function, power or duty delegated.

(3) The Council shall not have power under this section to delegate-

- (a) its power of delegation; or
- (b) its power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.

[s. 14]

Regulations
Act No.
12 of 2019 s. 21

16. The Minister may, for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of this subsection, may make regulations-

- (a) prescribing the conditions and terms upon which any specified facilities or services or categories of facilities or services within the stage of the functions of the Council shall be provided to the public and other persons;
- (b) providing for the proper management, control and administration of the Council;
- (c) to regulate discipline amongst employees of the Council and disciplinary proceedings against them;
- (d) prescribing fees, rates and other charges in connection with the provision by the Council of any service or facilities;
- (e) providing for a system of registration and issuance of permits to persons, organisations, associations or owners of infrastructure used for artistic activities engaged in or using works of art and infrastructures for exhibition and or performance of artistic works;
- (f) prescribing forms to be used for any purpose under this Act;
- (g) prescribing anything which may be prescribed under this Act.

- (h) providing for any matter which, in the opinion of the Council, is necessary to provide for the efficient performance of the functions of the Council;
- (i) providing for proper monitoring, control codes of conduct and disciplinary systems for artists, composer of artistic works, group of persons, associations, organisations and owners of infrastructures.

[s. 15]

Appeals to
Minister
Act No.
12 of 2019 s. 22

17.—(1) A person who is aggrieved by the decision of the Council under this Act may within thirty days of such decision, appeal to the Minister.

(2) On receipt of the appeal, the Minister shall, within thirty days, consider and determine the appeal.

(3) In determining the appeal, the Minister may-

- (a) uphold, quash or vary the decision of the Council and give decision accordingly; and
- (b) require the Council to inquire into any specific information from the appellant and make further consideration of the application.

[s. 15A]

Repeals
Acts Nos.
6 of 1974 and
7 of 1974

18. [Repeals of the National Acts council Act and the National Music Council Act]

[s. 16]

Transfer of assets
and liabilities
Acts Nos.
6 of 1974
7 of 1974

19.—(1) Notwithstanding the provisions of section 18, all the assets and liabilities of the National Arts Council established by the National Arts Council Act, and of the National Music Council established under the National Music Council Act, hereinafter referred to as the “former Councils” shall, by virtue of this section and without further assurance be deemed to have been vested in the Council as from the date when this Act comes into operation (hereinafter referred to as the “effective date”).

(2) Every person who, immediately before the effective date was managing the affairs and business of the former Councils shall, upon the enactment of this Act, do all things that are necessary or desirable for the effectual vesting in accordance with the provisions of this Act of the assets and liabilities of former Councils subsisting immediately before the effective date.

(3) Where before the enactment of this Act any person who, immediately before the effective date, was responsible for the management of the affairs and business of the former Councils did, or purported to do any lawful act in relation to the assets and liabilities of any of the Council which if done after the enactment of this Act would have been necessary or desirable for the more effectual vesting of the assets and liabilities of the former Councils in the Council, such lawful act shall be deemed to have been done under this Act, and its performance by that person shall not be called into question in any court by reason only of that act having been done before the enactment of this Act.

[s. 17]

Employees of
former Council

20.—(1) Every person employed by any of the former Councils before the effective date shall be deemed to have become employed by the Council as from the effective date.

(2) Where any person who, pursuant to the provisions of subsection (1) is deemed to have become an employee of the Council as from the effective date, the terms and conditions of service applicable to him in his employment with the Council shall be not less favourable than those which were applicable to him before the effective date.

[s. 18]

SCHEDULE

(made under section 3(2))

CONSTITUTIONS AND PROCEEDINGS OF THE COUNCIL

- | | |
|-------------------------|--|
| Constitution of Council | <p>1.-(1) The Council shall consist of-</p> <p style="padding-left: 20px;">(a) a Chairman, who shall be appointed by the President and who shall hold office for period of three years and not exceeding six years unless it is necessary or desirable to do so; and</p> <p style="padding-left: 20px;">(b) twenty nine other members who shall be appointed by the Minister.</p> <p style="padding-left: 20px;">(2) A member of the Council shall, unless his appointment is sooner terminated by the Minister or he otherwise ceases to be a member, hold office for such period as the Minister may specify in his appointment or, if no such period is specified, for a period of three years from the date of his appointment, and shall be eligible for re-appointment</p> <p style="padding-left: 20px;">(3) A member of the Council may at any time resign by giving notice in writing to the Minister and from the date of receipt of the notice by the Minister, he shall cease to be a member of the Council.</p> <p style="padding-left: 20px;">(4) Where any member of the Council is without the permission of the Council absent from more than four consecutive meetings of the Council or without such permission is absent from the United Republic for a period exceeding one year he shall cease to be a member of the Council.</p> |
| Casual vacancies | <p>2. Where any member of the Council ceases to be a member before the normal expiration of his term of office, the Minister may, after consulting the Council appoint another person in his stead to hold office until such first-named person's term of office would have expired had he not ceased to be a member as aforesaid.</p> |
| Vice-Chairman | <p>3. The Council shall elect from amongst its members a Vice-Chairman who shall hold office for one year but shall be eligible for re-election.</p> |
| Quorum and procedure | <p>4.-(1) The Council shall meet at such times as may be necessary or expedient for the transaction of business.</p> <p style="padding-left: 20px;">(2) At any meeting of the Council fifteen members shall constitute a quorum.</p> <p style="padding-left: 20px;">(3) At any meeting of the Council, the Chairman shall preside or, in the absence of the Chairman, the Vice-Chairman shall preside or if the Vice-Chairman is also absent the members present at the meeting shall elect one of their number to be the Chairman for that meeting.</p> <p style="padding-left: 20px;">(4) In the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.</p> |

- Minutes **5.** Minutes in proper form of each meeting of the Council shall be kept and confirmed by the Council at the next meeting and signed by the Chairman of that meeting.
- Vacancies, etc.,
not to invalidate
proceedings **6.** Subject to the provisions of paragraph 4 relating to quorum, the Council may act notwithstanding any vacancy in the membership and no act or proceeding of the Council shall be invalid by reason only of some defect in the appointment of a person who purports to be a member of the Council.
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