

OBJECTS AND REASONS

This Bill would provide for the establishment of a National Art Gallery and for related matters.

Arrangement of Sections

Section

PRELIMINARY

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2. Interpretation.

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Establishment, Functions and Management of Gallery

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BARBADOS

A Bill entitled

An Act to provide for the establishment of a National Art Gallery and for related matters.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *National Art Gallery Act, 2007*. Short title.

2. In this Act,

"authorised person" means a person authorised in writing by the Director;

Interpretation.

"Director" means the Director of the National Art Gallery;

"Gallery" means the Barbados National Art Gallery established by section 3;

"government residences" mean residences maintained directly by the Government;

"Minister" means the Minister responsible for Culture;

"National Collection" means those works of art that are owned by the Government, its agencies and statutory corporations;

"National Gallery Collection" means those works of art that are purchased or otherwise permanently acquired by the National Gallery;

"Secretary" means the Secretary to the Gallery;

"works of art" include visual art, craft and design.

PART I

Establishment, Functions and Management of Gallery

Establish-
ment of
Gallery.

3. (1) There is established the Barbados National Art Gallery which shall be responsible for

- (a) the administration and control of the National Collection and the National Gallery Collection;
- (b) the development and execution of the policy of the Gallery; and
- (c) the property of the Gallery.

Cap. 1.

(2) The Barbados National Art Gallery is a body corporate to which section 21 of the *Interpretation Act* applies.

First
Schedule.

(3) The *First Schedule* has effect with respect to the Constitution of the Gallery and otherwise in relation thereto.

Functions
of the
Gallery.

4. The functions of the Gallery are to

- (a) develop and maintain a collection of works of art;

- (b) advise Government on the acquisition, management and assessment of works of art for placement in government residences, government offices, departments and agencies, consulates, embassies, overseas offices and statutory corporations;**
- (c) manage, document and conserve the National Collection;**
- (d) promote knowledge, maintain archives and disseminate information about the Gallery and its collection and about art in general;**
- (e) collect, manage and conserve works of art in accordance with the respective policies of the Gallery and any other policy of the Gallery;**
- (f) exhibit or make available for exhibition by others, works of art from the Gallery, the National Collection and other collections or works, either locally or abroad; and**
- (g) carry out the mandate and mission of the Gallery.**

5. The Gallery has the power to

**Powers of
the Gallery.**

- (a) acquire through purchase or take on hire, commission or accept as a gift, on deposit or on loan, works of art;**
- (b) record, document, exhibit, promote, preserve, conserve and restore works of art according to the Gallery's policies and priorities;**
- (c) promote knowledge, maintain archives and disseminate information about the Gallery and its collection, the National Collection and about art in general;**
- (d) organise, facilitate and host national, regional and international conferences, seminars, symposia, lectures and workshops related to the visual arts, particularly Barbadian and Caribbean art;**
- (e) research, compile and publish information on art, with a particular focus on the art of Barbados and the Caribbean;**

- (f) undertake and sponsor research relating to the National Collection and to other works of art, and publish the findings of that research; and
- (g) carry out such other activities as would in the opinion of the Gallery facilitate the proper discharge of its functions or be related to or conducive to its functions.

Appoint-
ment of
Director.

6. (1) The Gallery shall with the approval of the Minister appoint a Director for a term of 3 years on such terms and conditions as the Gallery may determine.

(2) The Director shall be eligible for re-appointment.

(3) The Director

(a) shall perform the functions conferred on him by the Gallery and this Act; and

(b) is subject to the directions of the Gallery, and is responsible for the supervision of the work and the staff of the Gallery.

Appoint-
ment of
staff.

7. (1) The Gallery may employ at such remuneration and on such terms and conditions as the Minister approves in writing, such staff as is necessary for the efficient performance of its functions.

(2) Notwithstanding subsection (1), no office shall be established and no salary shall be assigned in excess of such amount as the Minister may determine in writing.

(3) Subject to this Act, no provision shall be made for the payment of any pension, gratuity or other like benefit to any person employed by the Gallery without the prior approval in writing of the Minister.

8. (1) The Gallery may engage persons having special or technical knowledge to assist in carrying out its functions. Experts.

(2) A person engaged pursuant to subsection (1) shall receive such remuneration as the Gallery determines.

9. (1) Any public officer who was employed in a pensionable office within the meaning of the *Pensions Act* and who accepts employment with the Gallery shall retain all rights in respect of pension, gratuity or other like benefit accruing to that public officer immediately before the commencement of this Act, and these rights shall be preserved. Pension plan. Cap. 25.

(2) The Gallery shall from the commencement of this Act, provide for the establishment and maintenance of a pension fund for the benefit of the employees of the Gallery.

(3) The Gallery shall, for the purposes of computing pensions and other retirement benefits to be paid out of the pension fund referred to in subsection (2), use the date of hire of an employee by the Gallery as the date for computing such pensions and benefits.

**Funds and
resources.**

- 10. The funds and resources of the Gallery shall comprise**
- (a) such money as may be voted for the purpose by Parliament;**
 - (b) such moneys which may become payable to or vested in the Gallery in respect of any matter incidental to its functions;**
 - (c) such amounts as may be obtained from the sale of articles, books and catalogues published by the Gallery;**
 - (d) moneys arising from gifts, grants or donations; and**
 - (e) all property and assets acquired by the Gallery with the approval of the Minister.**

**Application
of funds.**

- 11. The funds of the Gallery shall be applied towards**
- (a) the payment of salaries, fees, allowances, gratuities, pensions or similar benefits to persons employed or formerly employed by the Gallery;**
 - (b) the payment of remuneration, fees and allowances of members of the Gallery, experts and members of committees established by the Gallery;**
 - (c) the capital and operating expenses, including maintenance and insurance of the property of the Gallery;**
 - (d) the purchase and commissioning of works of art; and**
 - (e) meeting the obligations and the performance of any of the functions of the Gallery and matters incidental thereto.**

12. The Gallery may, with the approval in writing of the Minister responsible for Finance, borrow money from the Government or any person by way of loan, overdraft or otherwise upon such terms with respect to the borrowing, issue, transfer and interest as the Minister responsible for Finance approves for **Borrowing power.**

- (a) the provision of working capital; or
- (b) fulfilling the functions of the Gallery under this Act.

13. (1) The Government of Barbados may guarantee in such manner and on such conditions as Parliament thinks fit, the satisfaction of **Guarantee.**

- (a) any loan to the Gallery; and
- (b) interest charges or any other charges in respect of a loan to the Gallery.

(2) Subsection (1) does not apply to a loan from the Government of Barbados.

14. (1) The Gallery shall, in respect of its functions under this Act, keep proper accounts and adequate financial and other records in relation thereto to the satisfaction of and in accordance with the directions of an auditor appointed by the Gallery for the purpose of auditing the accounts. **Accounts and audit.**

(2) The accounts, financial and other records referred to in subsection (1) shall be kept for a period of 7 years.

(3) The Gallery shall prepare a statement of accounts in respect of each financial year.

(4) The Gallery shall not later than 30th September in each year submit its accounts for audit to the auditor appointed under subsection (1).

(5) The Auditor General may at any time and shall on the direction of the Minister responsible for Finance carry out an investigation or audit of the accounts of the Gallery.

(6) The Gallery and all other persons concerned with the keeping of its accounts shall grant to the auditor referred to in subsection (1) or the Auditor General, as the case may be, access to all books, documents and cash relating to those accounts, and shall give the auditor on request all the information within its knowledge in relation to the operation of the Gallery.

(7) Any person who fails to comply with the provisions of subsection (6) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for 6 months or to both.

Annual
report.

15. (1) The Gallery shall, not later than the 30th September in each year submit to the Minister a report containing

- (a) an account of the activities of the Gallery throughout the preceding financial year in such detail as the Minister directs; and
- (b) a statement of the audited accounts of the Gallery for that financial year.

(2) The Gallery shall lay a copy of the report referred to in subsection (1) before both Houses of Parliament and cause the same to be published in the *Official Gazette* not later than 3 months from the date of the receipt thereof by the Minister.

(3) The financial year of the Gallery is from 1st January.

Investment.

16. The Gallery shall not without the approval of the Minister

- (a) invest any of its funds in any securities;
- (b) dispose of any of its securities;

- (c) acquire or dispose of any real property; or
- (d) enter any contract for the purpose of raising a loan.

17. Notwithstanding any other enactment, the Gallery is Exemption. exempt from the payment of stamp duty, income tax and property transfer tax.

PART II

National Collection, Powers of Entry and Acquisition of Works of Art

18. From the commencement of this Act, all works of art owned by National Collection. the Government shall be part of the National Collection and are subject to the direction of the Gallery with respect to the preservation and management of the works of art.

19. (1) The Director or any authorised person may for the Preservation of National Collection. purpose of this Act enter any premises in which any work of art that forms part of the National Collection is housed for the purpose of

- (a) inspecting;
- (b) documenting;
- (c) maintaining;
- (d) preserving;
- (e) restoring; or
- (f) removing

the work of art.

(2) Where the Director or an authorised person wishes to enter any premises pursuant to subsection (1) the Director shall

- (a) obtain the consent of the owner or occupier of the premises to enter the premises;

- (b) before entering the premises, give not less than 48 hours notice in writing of the intention to enter to the owner or occupier of the premises in which the work of art is kept.

Acquisition
of works of
art.

20. (1) Where the Gallery is aware of or becomes aware of a work of art which it believes should form part of the National Collection, the Director shall inspect the work for the purpose of assuring the same.

(2) Where the Director determines that the work of art should form part of the National Collection then the Gallery shall enter into a contract with the owner of the work of art for the purpose of acquiring the work of art.

(3) Where the owner of the work of art agrees to the acquisition but is dissatisfied with the valuation made by the Gallery which is reflected in the amount offered under the contract, the owner may within 28 days of the date of the offer, refer the matter to the experts referred to in section 8, for a review of the valuation.

(4) The experts shall hear the parties to the matter and shall within 3 months of the date of hearing make a determination as to the value of the work of art.

(5) In determining a valuation under subsection (4) the experts shall take the following matters into consideration:

- (a) the relevance and importance of the work of art to the development of Barbadian culture, and the fact that the work of art is of such importance to Barbados and that its loss would significantly diminish the cultural heritage;
- (b) the condition of the work of art;
- (c) the educational or documentary significance of the work of art;

- (d) the artistic merit of the work of art; and
- (e) its contribution to the scope of the collection.

(6) Where the owner of the work of art is dissatisfied with the valuation determined by the experts, the owner may appeal the valuation to a Judge in Chambers.

PART III

Miscellaneous

21. (1) No person shall

Damage to
work of art
or removal
from
Barbados.

- (a) remove from Barbados any work of art that forms part of the National Collection without the express permission of the Gallery;
- (b) do any act that is likely to damage, alter or destroy any work of art that forms part of the National Collection; or
- (c) permit or acquiesce in the doing of an act referred to in paragraph (a) or (b).

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years or to both.

22. The Minister may give the Gallery directions of a general nature in respect of the policy to be followed under this Act, and the Gallery shall comply with those directions.

Directions
of the
Minister.

23. Any person who

Offences.

- (a) disrupts any activity sponsored by the Gallery;
- (b) enters a building or premises of the Gallery by any means other than that provided;

- (c) makes use of any facilities under the control of the Gallery without the permission of the Gallery

is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 12 months or to both.

Regulations. 24. The Gallery may with the approval of the Minister, make regulations

- (a) respecting the conditions under which the facilities under the control of the Gallery may be let or used;
- (b) respecting policy for the preservation, management and expansion of the National Collection;
- (c) respecting the charging of fees under this Act;
- (d) prescribing anything that may be prescribed;
- (e) generally for carrying out the provisions of this Act.

**Amend-
ment of
enactment
set out in
the Second
Schedule.
Second
Schedule.**

25. The enactment set out in Column 1 of the *Second Schedule* is amended in the respects specified opposite thereto in Column 2 of the *Second Schedule*.

**Commence-
ment.**

26. This Act comes into operation on a day to be fixed by proclamation.

FIRST SCHEDULE

(Section 3(3))

Constitution and Procedure of the Gallery

1. (1) The Gallery shall consist of not less than 7 persons and not more than 11 persons appointed by the Minister by instrument in writing and shall consist of persons who have knowledge and expertise with respect to the visual arts and the National Collection. Constitu-
tion of the
Gallery.

(2) The Minister shall appoint a Chairman and a Deputy Chairman from amongst its members.

(3) The Gallery may, after consultation with the Minister, appoint any person to act temporarily in the place of any member who is absent from Barbados or where that member is unable to act.

2. (1) A member of the Gallery shall hold office for a term of 3 years and shall be eligible for re-appointment. Tenure.

(2) A vacancy shall arise in the membership of the Gallery in the case of

- (a) the death or resignation of a member;
- (b) the revocation by the Minister of the appointment of a member;
- (c) the absence from Barbados of a member without leave of the Minister; or
- (d) the inability of a member to act.

3. The Chairman, Deputy Chairman and other members of the Gallery are entitled to such remuneration and allowances as the Minister may determine. Remunera-
tion.

4. (1) The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister and from the date of the receipt of the instrument by the Minister, the Chairman or Deputy Chairman ceases to be Chairman or Deputy Chairman and a member of the Gallery unless some other date is mentioned in the instrument. Resignation
of Chair-
man, Deputy
Chairman or
member of
Gallery.

(2) A member of the Gallery, other than the Chairman or Deputy Chairman, may resign his office by instrument in writing addressed to the Minister and from the date of the receipt of the instrument by the Minister the member ceases to be a member of the Gallery.

Revocation
of appoint-
ment.

5. The Minister shall terminate the appointment of a member where the member

- (a) fails without reasonable excuse to attend 3 consecutive meetings of the Gallery unless the failure to attend was approved by the Minister;
- (b) has become bankrupt or has made an arrangement with his creditor;
- (c) is incapacitated by physical or mental illness;
- (d) engages in fraudulent or other dishonest behaviour or behaviour conflicting with the discharge of his duties as a member of the Gallery; or
- (e) is otherwise unfit to discharge the functions of a member of the Gallery.

Publication
in the
Official
Gazette.

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

Meetings
and
presiding at
meetings.

7. (1) The Gallery shall regulate its own procedure and shall meet at such times as may be necessary or expedient for the transaction of its business, and each meeting shall be held on such days and at such times as the Gallery determines.

(2) The Chairman or in his absence, the Deputy Chairman shall preside at all meetings of the Gallery and, in the case of the absence of both, the members present and constituting a quorum shall elect a temporary Chairman from among their members who shall preside at the meeting.

(3) The Chairman may at any time call a special meeting of the Gallery and shall call such a meeting within 7 days after receiving a request to do so by any 5 members of the Gallery.

8. Five members of the Gallery shall form a quorum. Quorum.
9. The decisions of the Gallery shall be by a majority of votes and where the voting is equal the Chairman has, in addition to his original vote, a second or casting vote. Decisions.
10. Minutes of each meeting shall be duly kept in proper form by the Secretary appointed by the Gallery for the purpose, and shall be confirmed in writing by the Gallery at its next meeting and signed by the Chairman or other person presiding at that meeting. Minutes.
11. The Gallery may co-opt persons to attend any of its meetings for the purpose of assisting or advising it respecting any matters with which it is dealing, but a co-opted member does not have the right to vote. Attendance of non-members at meetings.
12. (1) The seal of the Gallery shall be kept in the custody of the Chairman or Deputy Chairman, and may be affixed to documents or instruments pursuant to a resolution of the members in the presence of the Chairman or Deputy Chairman and the Secretary. Procedure.
- (2) The seal of the Gallery shall be authenticated by the signature of the Chairman or Deputy Chairman and the Secretary.
- (3) All documents or instruments other than those required by law to be under seal, made by the Gallery, and all decisions of the Gallery may be signified under the hand of the Chairman or Deputy Chairman.
13. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Gallery shall disclose to the Gallery the particulars of that interest and the details of the disclosure shall be recorded in the minutes taken at the meeting at which the disclosure is made. Disclosure of members interest.
- (2) A member referred to in paragraph (1) shall not take part in any deliberation or discussion of the Gallery relating to that contract or business.
14. The Gallery may grant leave of absence to any of its members and may appoint a person to act temporarily in the place of that member. Leave of absence.

Appoint-
ment of
committees.

15. (1) The Gallery may appoint such number of committees as it deems fit and may delegate any of its functions to the committees.

(2) A Committee comprises such number of persons as the Gallery determines.

(3) Subject to the directions of the members, a committee may determine its own procedure and the times and places of its meetings.

(4) Where persons who are not members of the Gallery are appointed to committees, the Gallery with the approval of the Minister, may determine the remuneration and allowances payable to those persons.

(5) The Gallery may reject a report of any committee appointed under this paragraph or adopt it with or without modification.

SECOND SCHEDULE

(Section 25)

Column 1

Column 2

Enactment

Amendment

*Value Added Tax Act, Cap.
87*

In the *First Schedule* add the following as paragraph 23:

"23. A supply of a good or service by the National Art Gallery."