

CAYMAN ISLANDS



CAYMAN NATIONAL CULTURAL FOUNDATION LAW, 2013

(Law 8 of 2013)

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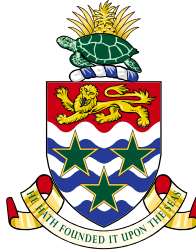
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(Law 8 of 2013)

A LAW TO REPEAL AND REPLACE THE CAYMAN NATIONAL CULTURAL FOUNDATION LAW, 1984 AND THE CAYMAN NATIONAL CULTURAL FOUNDATION LAW, 1992; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the *Cayman National Cultural Foundation Law, 2013*.
- (2) This Law shall come into force on such date as may be appointed by Order made by the Governor in Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Interpretation

2. In this Law —

“**Board**” means the Board of the Cayman National Cultural Foundation constituted in accordance with section 8(1);

“**Chairman**” means a person designated as such under section 8(1);

“**Deputy Chairman**” means a person designated as such under section 8(1);

“**Foundation**” means the Cayman National Cultural Foundation established by section 3(1) of the *Cayman National Cultural Foundation Law, 1984* and continued in existence by section 3 of this Law; and

“**member**” means a person whose name appears on the register kept in accordance with section 14(1) but does not include any such person who has failed to pay to the Foundation any annual or other membership fee when it became due and payable or has otherwise ceased to be a member.

Foundation continued

3. (1) The body corporate established by the *Cayman National Cultural Foundation Law, 1984* [Law 18 of 1984] and known as the Cayman National Cultural Foundation is continued in existence by this Law under the same name but constituted in accordance with this Law.

Legal capacity of Foundation

4. (1) The Foundation —
- (a) has perpetual succession;
 - (b) may enter into contracts;
 - (c) may sue and be sued;
 - (d) may purchase, lease or otherwise acquire, hold, deal with and dispose of land and other property; and
 - (e) shall have a corporate seal.
- (2) A court or person acting judicially shall assume that a document bearing the imprint of the corporate seal of the Foundation was properly sealed by the Foundation unless proved otherwise.
- (3) In the performance of the functions of the Foundation specified in section 5, the real and personal property of the Foundation shall be held in trust for the people of the Cayman Islands.
- (4) Notwithstanding subsection (1), the Foundation shall not, except with the prior approval of the Governor in Cabinet —
- (a) acquire or dispose of any real property; or
 - (b) enter into any contract for the purpose of raising a loan.

Functions of Foundation

5. The functions of the Foundation are —
- (a) to stimulate and facilitate the development and preservation of Caymanian culture generally;
 - (b) to do anything necessary or desirable to assist people and organisations interested in developing cultural and artistic expression, particularly



- people and organisations interested in preserving and exploring Caymanian performing and visual arts;
- (c) to develop, maintain and manage theatres and other cultural facilities, as well as their equipment;
 - (d) to stimulate the development of local cultural and artistic talent by means of training, workshops, competitions, exhibitions, pageants, parades, displays and similar activities;
 - (e) to organize cultural festivals; and
 - (f) to do such other things are prescribed.

Powers of Foundation

6. (1) The Foundation has power to do anything necessary or convenient to be done for the purpose of carrying out its functions.
- (2) Without limiting the generality of subsection (1), the Foundation has power to solicit funds and other support for its activities both from persons in the private sector and from the Government.

Foundation to act through Board

7. The Foundation shall in exercise of its powers and in carrying out its functions and duties act, through a Board to be known as the Board of the Cayman National Cultural Foundation.

Constitution of Board

8. (1) The Governor in Cabinet shall appoint the Board, which shall comprise nine members —
- (a) eight of whom shall be nominated by the Governor in his discretion; and
 - (b) one of whom shall be nominated by Mrs Helen Harquail or her estate, and two of whom shall be designated respectively as Chairman and Deputy Chairman.
- (2) A member referred to in subsection (1)(a) shall hold office for a term not exceeding three years and shall otherwise be subject to the terms and conditions contained in his notice of appointment.
- (3) Where a vacancy occurs on the Board, the Governor in Cabinet shall appoint a member to hold office for the remainder of the term of the member originally appointed.
- (4) An act or other proceeding of the Board shall not be invalid or be affected by —
- (a) a defect in the appointment of a person purporting to be a member of the Board; or

- (b) a vacancy in the membership of the Board.
- (5) The Governor in Cabinet shall cause to be notified in the Gazette appointments made under this section.

Liability of members

9. Neither the Foundation nor any member of the Board or employee of the Foundation shall be liable in damages for anything done or omitted in the discharge of their respective functions under this Law unless it is shown that the act or omission was in bad faith.

Expenses of members of Board

10. Board members who are not staff of the Foundation or public servants shall be paid such allowances as the Governor in Cabinet may determine.

Managing Director

11. (1) The Board shall appoint, on such terms and conditions as the Board may think fit, a Managing Director, who shall be —
- (a) a full time employee of the Foundation; and
 - (b) the principal executive officer of the Foundation, entrusted with day to day management and administration, to the extent of the authority delegated to him by the Board.
- (2) The Managing Director shall render his services exclusively to the Foundation and shall be answerable to the Board for his acts and decisions.
- (3) In the absence of Managing Director or his inability to fulfil his duties, the Board may appoint a senior employee of the Foundation to discharge the duties and functions of the Managing Director.

Power to employ staff, etc.

12. (1) The Board may, on such terms and conditions as it may approve —
- (a) employ full time and part time employees; and
 - (b) engage consultants.
- (2) Subject to this Law, the Board shall determine the executive, management and administrative structure of the Foundation including the delegation of functions to directors, employees and committees of the Board.
- (3) The Board shall determine —
- (a) the professional qualifications and requirements of persons engaged under subsection (1);
 - (b) the terms and conditions of engagement of persons referred to in subsection (1); and



- (c) disciplinary procedures for employees of, and for, persons under contracts for services with the Foundation.

Meetings of Board

- 13.** (1) The Chairman shall call meetings of the Board as often as he considers necessary for the performance of its functions but at least once in each quarter.
- (2) At a meeting of the Board —
- (a) the Chairman shall preside but if he is absent the Deputy Chairman shall preside and no meeting shall take place if both are absent;
 - (b) five members shall form a quorum;
 - (c) questions shall be decided by a majority of the votes of the members present, with the presiding member having a casting vote if there is an equality of votes;
 - (d) minutes of the meeting shall be kept; and
 - (e) the Board may otherwise determine its own procedures.
- (3) The Board may co-opt other members of the Foundation to attend its meetings to assist or advise it but a person so co-opted shall have no right to vote at a meeting of the Board nor shall he count towards a quorum.

Records to be kept and made available

- 14.** (1) The Board shall keep a register of the names and addresses of members of the Foundation.
- (2) The Board shall make available to members at reasonable times —
- (a) the register of the members of the Foundation; and
 - (b) the minutes of the meetings of the Board.

Power to delegate

- 15.** The Board may, in writing, delegate any of its powers and duties under this Law, other than the power of delegation.

Accounts

- 16.** (1) The Foundation shall cause to be kept proper accounts of its financial affairs to be prepared and maintained on an accrual basis and in accordance with general accounting practice.
- (2) The Foundation shall have its accounts audited annually by the Auditor General.

Compliance with Public Management and Finance Law (2010 Revision)

17. (1) The Foundation being a statutory authority as defined in section 3 of the *Public Management and Finance Law (2010 Revision)*, that Law applies, without limiting the applicability of that Law in other areas, to —
- (a) the Foundation's expenditure budget for each financial year; and
 - (b) the preparation, maintenance, auditing and publication of the Foundation's accounts.
- (2) Without prejudice to any other provision of the *Public Management and Finance Law (2010 Revision)*, section 52 of that Law shall apply to the Foundation and it shall be the duty of the Board to prepare the annual report and perform other duties required by that section.
- (3) Where the exercise of a power conferred by or under this Law would be inconsistent with the exercise of a power conferred by or under the *Public Management and Finance Law (2010 Revision)*, that Law shall to the extent of the inconsistency prevail over this Law.

Exemption from certain duties, etc.

18. Notwithstanding any other Law —
- (a) an instrument which transfers land to, or vests land in, the Foundation is exempt from stamp duty and any related registration and recording fees; and
 - (b) no import duty shall be payable on any article imported or taken out of bond by or for the Foundation or Board.

Power to make regulations

19. The Governor in Cabinet may make regulations prescribing all matters that are required or permitted by this Law to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Law.

Minister can give policy directions

20. The Minister with responsibility for culture may, after consultation with the Foundation, give such general directions in written form as to the policy to be followed by the Foundation in the performance of its duties and functions as appear to the Minister to be necessary in the public interest.

Repeal of Law 18 of 1984 and transitional

21. The *Cayman National Foundation Law, 1984* is repealed but —
- (a) members of the Council of the Foundation shall continue to function as members of the Board, even after expiry of their terms, until a new Board is appointed under this Law; and



- (b) members of the Foundation who are in good standing shall continue to be members.

Repeal of Law 24 of 1992

22. The *Cayman National Cultural Foundation Law, 1992* is repealed.

Passed by the Legislative Assembly the 25th day of March, 2013.

Mary J. Lawrence
Speaker.

Zena Merren-Chin
Clerk of the Legislative Assembly