

CHAPTER 444**MALTA COUNCIL FOR CULTURE AND THE ARTS ACT**

To provide for the establishment of a Council to be known as the Malta Council for Culture and the Arts to encourage and promote culture within a wide perspective of socio-economic activity, and to make provision with respect to matters ancillary thereto or connected therewith.

15th August, 2002

15th December, 2002

1st January, 2003

ACT V of 2002, as amended by Act XXXII of 2007 and Legal Notice 426 of 2007.

Arrangement of Act

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SCHEDULES

FIRST SCHEDULE	List of Government Entities
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PART I

PRELIMINARY

- Short title. **1.** The short title of this Act is the Malta Council for Culture and the Arts Act.
- Interpretation.
Amended by:
XXXII. 2007.18. **2.** In this Act, unless the context otherwise requires -
- "Council" means the Malta Council for Culture and the Arts established by article 3;
- "Chairperson" means the Chairperson of the Council and includes, in the circumstances mentioned in article 3(3), the Deputy Chairperson or any other person appointed to act as Chairperson;
- "contractor" means a person acting in pursuance of an agreement entered into with the Council or in accordance with article 5(2);
- "employee" means a person employed by the Council;
- "Executive Director" means the person appointed under article 5(1);
- "financial year" means any period of twelve months ending on the 31st December:
- Provided that the financial year which commenced on the 1st October 2007 shall be for a period of fifteen months and shall terminate on the 31st December, 2008;
- "Minister" means the Minister responsible for Culture;
- "prescribed" means prescribed by regulations made by the Minister under the provisions of this Act;
- "public officer" in relation to article 15, has the same meaning assigned to it by article 124 of the Constitution.

PART II

ESTABLISHMENT, FUNCTIONS AND CONDUCT OF
AFFAIRS OF THE COUNCIL

- Establishment and composition of the Malta Council for Culture and the Arts. **3.** (1) There shall be a body, to be known as the Malta Council for Culture and the Arts, which shall consist of a Chairperson and not less than four and not more than eight other members. One of the members shall be nominated by the Minister responsible for Gozo.
- (2) The members of the Council shall be appointed by the Minister for a term of three years, but the members so appointed shall be eligible for re-appointment on the expiration of their term of office.
- (3) The Minister may designate one of the other members of the Council as Deputy Chairperson and the member so designated shall have all the powers and perform all the functions of the Chairperson during his absence or inability to act as Chairperson, or while the Chairperson is on vacation, or during any vacancy in the office of Chairperson; and the Minister may also, in any of the circumstances aforesaid, appoint another person to act as

Chairperson and in such case the foregoing provisions shall apply in respect of such person.

(4) A person shall not be qualified to hold office as a member of the Council if he -

- (a) is a Minister, Parliamentary Secretary or a Member of the House of Representatives, or
- (b) is a Judge or Magistrate, or
- (c) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a member of the Council:

Provided that the Minister may waive the disqualification of a person under this paragraph if such person declares the interest, and such declaration and waiver are published in the Gazette.

(5) Subject to the provisions of this article, the office of a member of the Council shall become vacant -

- (a) at the expiration of his term of office, or
- (b) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such.

(6) A member of the Council may be removed from office by the Minister if, in the opinion of the Minister, such member is unfit to continue in office or has become incapable of properly performing his duties as a member.

(7) If a member resigns or if the office of a member of the Council is otherwise vacant or if a member is for any reason unable to perform the functions of his office, the Minister may appoint a person who is qualified to be appointed to be a temporary member of the Council; and any person so appointed shall, subject to the provisions of subarticle (5) and (6), cease to be such a member when a person has been appointed to fill the vacancy or, as the case may be, when the member who was unable to perform the functions of his office resumes those functions.

(8) Any member of the Council who has any direct or indirect interest in any contract made or proposed to be made by the Council, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Council after the relevant facts have come to his knowledge. Such disclosure shall then be recorded in the minutes of the Council, and the member having an interest as aforesaid shall withdraw from any meetings at which such contract is discussed. Any such disclosure shall be communicated to the Minister without delay. Where the interest of the member is such as to disqualify him from remaining a member, he shall report the fact immediately to the Minister and tender his resignation.

4. (1) It shall be the duty of the Council to promote Malta's culture through all forms of creative expression and to increase the accessibility of the public to the arts, and enhance Malta's cultural heritage locally and abroad.

Functions of the Council.

- (2) In the performance of its duties, the Council shall -
- (a) develop, motivate and improve the understanding and expression of, and accessibility to culture and the arts;
 - (b) safeguard the dynamic development of those cultural features, including intellectual, linguistic and folkloristic features, which identify the Maltese people;
 - (c) collaborate with Local Councils, non-governmental organizations and other persons for the promotion of artistic and cultural initiatives in an environment which recognizes the value of creativity as central to a mature and healthy community;
 - (d) encourage the exploration, development and expression of personal artistic potential;
 - (e) promote participation, inclusiveness, equality and the freedom of artistic expression, pluralism and identity in culture;
 - (f) adopt an integrated and co-operative approach with persons, bodies and organizations in the culture market to increase and intensify awareness and appreciation of cultural and artistic activities;
 - (g) promote and ensure the development of educational schemes encouraging active participation in cultural and artistic programmes and activities;
 - (h) advise the Minister on cultural policies and strategies that reach out to the whole socio-cultural sphere;
 - (i) devise and implement strategies which secure the identity of Maltese culture both locally and abroad;
 - (j) administer schemes and undertake such other responsibilities in relation to such artistic and cultural entities as stipulated in the Act or as the Minister may from time to time prescribe;
 - (k) otherwise to advise the Minister on any matter connected with its functions under this or any other Act.
- (3) The Council shall also:
- (a) monitor, keep under review and evaluate all standards, operations and activities relating to any cultural and artistic matter;
 - (b) carry out studies, research or investigation relating to any cultural and artistic matter;
 - (c) provide information and issue guidelines, to the public and to cultural entities, relating to any cultural and artistic matter;
 - (d) do all such things as may be necessary for the proper discharge of its functions under this Act, including the setting up of other entities and committees as needs be with the approval of the Minister;

- (e) perform such other functions as may from time to time be assigned to it by the Minister.

5. (1) Subject to the other provisions of this Act, the direction of the affairs and business of the Council shall be the responsibility of the Council itself but, save as aforesaid, the executive conduct of the Council, its administration and organization and the administrative control of its officers and employees, shall be the responsibility of an Executive Director who shall also have such other powers as may from time to time be delegated to him by the Council.

Conduct of the affairs of the Council.

(2) Subject to the provisions of subarticle (1) the Council may exercise its functions through any of its officers or employees or through an entity or agency authorized for the purpose, or through a contractor or other person with whom an agreement for the performance of any one or more of such functions has been entered into.

(3) The Executive Director shall attend all the meetings of the Council but shall not vote at such meetings:

Provided that the Council may, if it deems so fit, require the Executive Director not to attend any of the meetings or any part of a meeting.

(4) The Executive Director shall, subject to the general control and direction by the Council, be responsible for the implementation of the objectives of the Council in the exercise of its functions and without prejudice to the generality of the foregoing he shall -

- (a) assume full responsibility for the administration and organization and the administrative control of the officers and employees of the Council and for such purpose, assign to each officer or employee such duties as may be required;
- (b) develop the necessary strategies for the implementation of the objectives of the Council;
- (c) advise the Council on any matter it may refer to him or on any matter which he considers necessary or expedient;
- (d) perform such other duties as the Council may assign to him from time to time.

6. (1) For the purposes of this Act the Council shall develop, publish, sustain and implement a Calendar of Events that ensures a continuous programme of cultural and artistic events organized by the Council itself or by bodies, entities or other persons funded or subsidized in terms of article 7.

Calendar of events.

(2) The Council shall also include in the Calendar of Events those cultural and artistic programmes, initiatives and events produced by entities, organizations or other persons apart from those referred to in subarticle (1), and which in the opinion of the Council deserve to be so included for their better promotion.

Schemes for the allocation of funds or subsidies to cultural and artistic entities.

7. To further its objectives, the Council shall -

- (a) advance such funds as may be allocated by Government for the management, administration and operational requirements of the entities listed in the First Schedule;
- (b) allocate funds donated or entrusted to the Council by any person for a specific purpose or for the promotion of culture and the arts in general, and according to such terms and conditions, if any, as stipulated by the said person;

Provided that where no terms or conditions are attached to the allocation of funds, the provisions of paragraph (c) shall apply;

- (c) administer schemes prescribed by the Minister for the purpose of funding or subsidising the organization of cultural and artistic programmes, initiatives and events produced by anybody, entity or person so qualified under the provisions of appropriate regulations made under this Act.

Setting up of bodies corporate to administer, etc., cultural assets.

8. (1) The Minister may by order establish bodies corporate having a distinct legal personality to administer and manage any or all of the assets or undertakings listed in the Second Schedule.

(2) The Minister shall in such order establish the composition and powers of the governing bodies of such bodies corporate and shall establish rules relating to the accountability, financial control and audit of such bodies as well as rules relating to any other matter ancillary thereto which the Minister may in his opinion deem necessary for the good governance and the proper functioning of such bodies.

(3) The Minister may from time to time by regulations under this article amend or substitute the rules referred to in subarticle (2).

(4) The Minister may by similar order remove any asset or undertaking from the administration or management of any body corporate established under this article and may also by any such order transfer any such administration or management from one body corporate so established to another such body corporate, but may not by any such order dissolve any body corporate established under this article.

(5) The Minister may by notice in the Gazette add to the list of assets and undertakings listed in the Second Schedule.

(6) Every order as is referred to in this article shall be published in the Gazette as soon as possible.

Relations between the Minister and the Council.

9. (1) The Minister may from time to time, give to the Council such directives in writing as he may deem appropriate, being directives not inconsistent with the provisions of this Act, and the Council shall, as soon as may be, give effect to all such directives and shall conduct its affairs accordingly.

(2) The Council shall afford to the Minister facilities for obtaining information with respect to its property and activities and furnish him with returns, accounts and other information with respect thereto, and afford to him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

(3) If the Council fails to comply with any direction issued under this article, the Prime Minister may make an order transferring to the Minister in whole or in part any of the functions of the Council.

10. (1) The Council shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are incidental or conducive to the exercise or performance of its functions under this Act, including the lending or borrowing of money.

Legal personality and representation of the Council.

(2) The legal representation of the Council shall jointly vest in the Chairperson and the Executive Director:

Provided that the Council may appoint any one or more of its members or officers or employees to appear in the name and on behalf of the Council in any judicial proceedings and in any act, contract, instrument or other document whatsoever.

(3) Any document purporting to be an instrument made or issued by the Council and signed by the Chairperson or issued by and signed by the Executive Director shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Council or the Executive Director.

11. (1) The meetings of the Council shall be called by the Chairperson as often as may be necessary but at least once every two months either on his own initiative or at the request of any two of the other members.

Provisions with respect to proceedings of the Council.

(2) Half the number of the members for the time being constituting the Council shall form a quorum. Decisions shall be adopted by a simple majority of the votes of the members present and voting. The Chairperson, or in his absence the Deputy Chairperson or other person appointed to act as Chairperson, shall have an initial vote and in the event of an equality of votes, a casting vote. Without prejudice to the other requirements of this Act, no decision shall be valid which is not supported by at least three members of the Council.

(3) The Council may from time to time invite any person to attend one or more of its meetings to provide expert advice on any item that it may be discussing:

Provided that such person is invited for a limited number of meetings only and in connection with a specific subject and provided also that he shall not vote at such meetings.

(4) Subject to the provisions of this Act the Council may regulate its own procedure.

(5) Subject to the foregoing provisions of this article, no act or proceeding of the Council shall be invalidated merely by reason of the existence of any vacancy among the members.

(6) If acts done by any person acting in good faith as a member of the Council shall be valid as if he were a member notwithstanding that some defect in his appointment or qualifications be afterwards discovered. No act or proceeding of the Council shall be questioned on the ground of the contravention, by a member, of the provisions of article 3(8).

National forum.

12. (1) The Minister shall, once every two years, convene a National Forum for the Culture and the Arts inviting the participation therein of the Council and its officers, Government departments and entities, representatives of Local Councils, non-governmental and voluntary organisations, educational, cultural and artistic institutions whether public or private, as well as representatives of the tourist, commercial and the audio-visual communications media sectors, and any other parties registering their interest in writing with the Minister.

(2) The Forum shall discuss the national cultural and arts policy in force from time to time, and the state of culture and the arts in general after hearing a report thereon prepared by the Executive Director.

(3) The Minister shall regulate the proceedings of the Forum and appoint its Chairperson.

(4) The proceedings of the Forum shall be published and transmitted to the Minister.

(5) The Minister shall give advance public notice at least a month before the meeting of the forum.

PART III

OFFICERS AND EMPLOYEES OF THE COUNCIL

Staff appointments.

13. (1) Subject to the provisions of the Constitution and of any other enactment applicable thereto, and without prejudice to the other provisions of this Act, the appointment of officers and other employees of the Council shall be made by the Council. The terms and conditions of employment shall be established by the Council with the concurrence of the Minister.

(2) The Executive Director shall be appointed by the Council with the concurrence of the Minister for a period of three years and such period may be extended for further periods of three years subject to satisfactory performance:

Provided that the first Executive Director shall be appointed by the Minister for a period of four years.

14. The Council shall appoint and employ, at such remuneration and upon such terms and conditions as it may in accordance with article 13 determine, such officers and employees of the Council as may from time to time be necessary for the due and efficient discharge of the functions of the Council.

Appointments commensurate with the functions of the Council.

15. (1) The Prime Minister may, at the request of the Council, from time to time direct that any public officer shall be detailed for duty with the Council in such capacity and with effect from such date as may be specified in the direction.

Detailing of public officers for duty with the Council.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein, shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or a different date is specified in the direction, end on the happening of any of the following events, that is to say:

- (a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with the Council made in pursuance of article 16; or
- (b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officer.

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Council in such capacity and with effect from such date as may be specified in the further direction and the provisions of subarticle (2) shall thereupon apply to the period of duration of such further direction in relation to such officer.

16. (1) Where a public officer is detailed for duty with the Council under any of the provisions of article 15, such officer shall, during the time in which such direction has effect in relation to him, be under the administrative authority and control of the Council but he shall for other intents and purposes remain and be considered and treated as a public officer.

Status of public officers detailed for duty with the Council.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -

- (a) shall not during the time in respect of which he is so detailed -
 - (i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at the date on which he is so detailed for duty; or
 - (ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the

Council; and

Cap. 93.
Cap. 58.

(b) shall be entitled to have his service with the Council considered as service with the Government for the purposes of any pension, gratuity, or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Council.

(3) Where an application is made as provided in subarticle (2)(a)(i) the same consideration shall be given thereto as if the applicant had not been detailed for service with the Council.

(4) The Council shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Council as aforesaid during the period in which he is so detailed.

Offer of permanent
employment with
the Council to
public officers
detailed for duty
with the Council.

17. (1) The Council may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Council under the provisions of article 15 permanent employment with the Council at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprized in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister offer substantially equivalent or greater benefits.

Cap. 93.
Cap. 58.

(3) Every public officer who accepts permanent employment with the Council offered to him, under the provisions of subarticle (1) shall, for all purposes other than those of the Pensions Ordinance and the Widows' and Orphans' Pensions Act, and saving the provisions of subarticle (6), cease to be in service with Government and shall enter into service with the Council on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Council shall be deemed to be service with the Government within the meanings thereof respectively.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Council was entitled to benefit under the Widows' and Orphans' Pensions Act, shall continue to be so entitled to benefit thereunder to all intents as if his service with the Council were service with the Government.

(5) The Council shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Council as aforesaid during the period commencing on the date of such officer's acceptance.

- (6) (a) For the purposes of the Pensions Ordinance the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Council.
- (b) The classification referred to in paragraph (a) shall be carried out by a board composed of a Chairperson appointed by the Minister responsible for finance and two other members, one appointed by the Minister responsible centrally for personnel policies in the public service and one appointed by the Council. The classification shall be subject to the final approval of the Minister responsible for finance.
- (c) Such classification shall take place within three months of any adjustment of salaries of employees in Government service and, or, of employees of the Council.
- (d) No post shall be classified in a grade higher than that of a Grade 3 in the service of the Government or such other grade that the Minister responsible for finance may from time to time by notice in the Gazette determine.
- (e) Without prejudice to article 113 of the Constitution, no person may, following a classification as aforesaid, be entitled to rights under the said Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

PART IV

FINANCIAL PROVISIONS

18. (1) Without prejudice to the following provisions of this article, the Council shall so conduct its affairs that the expenditure required for the proper performance of its functions shall, as far as practicable, be met out of its revenue.

Council to meet expenditure out of revenue.

(2) For such purpose the Council shall levy all fees, rates and other payments prescribed by or under this Act.

(3) Any excess of revenue over expenditure shall, subject to such directives as the Minister, after consultation with the Minister responsible for finance, may from time to time give, be applied by the Council to the formation of reserve funds to be used for the purposes of the Council; and without prejudice to the generality of the powers given to the Minister by this subarticle, any direction given by the Minister as aforesaid may order the transfer to the Government, or the application in such manner as may be specified in the direction, of any part of the fees, rates and other payments levied in accordance with subarticle (2) or any such excess as aforesaid.

(4) Any funds of the Council not immediately required to meet expenditure may be invested in such manner as may from time to time be approved by the Minister.

Advances from Government.

19. The Minister responsible for finance may, after consultation with the Minister, make advances to the Council of such sums as he may agree to be required by the Council for carrying out any of its functions under this Act, and may make such advances on such terms and conditions as he may, after consultation as aforesaid, deem appropriate. Any such advance may be made by the Minister responsible for finance out of the Consolidated Fund, and without further appropriation other than this Act, by warrant under his hand authorising the Accountant General to make such advance.

Allocation of funds to cultural and artistic entities.

20. (1) The Council shall also receive from Government out of the Consolidated Fund such sums as may be required for the allocation of funds in terms of article 7.

(2) Without prejudice to any other provision of this Act, the Minister may give to the Council directives as to the application of those sums as referred to in subarticle (1).

Power to borrow or raise capital.
*Amended by:
L.N. 426 of 2007.*

21. (1) For the purpose of carrying out any of its functions under this Act, the Council may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow or raise money in such manner, from such person, body or authority, and under such terms and conditions as the Minister, after consultation as aforesaid, may in writing approve.

(2) The Council may also, from time to time, borrow, by way of overdraft or otherwise, such sums as it may require for carrying out its functions under this Act:

Provided that for any amount in excess of one hundred and sixteen thousand and four hundred and sixty-eight euro and sixty-seven cents (116,468.67), there shall be required the approval of the Minister in writing.

Borrowing from Government.

22. (1) The Minister responsible for finance may, for any requirements of the Council of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms and conditions as he may deem appropriate; and any sums due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(2) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House of Representatives as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in subarticle (1), or for the purpose of providing the Council with working capital, the Minister responsible for finance may, by warrant under his hand, and without further appropriation other than this Act, authorize the Accountant General to make advances to the Council out of the Treasury Clearance Fund under such terms as may be specified by the Minister upon the making thereof.

(4) The proceeds of any loan raised for the purposes of making advances to the Council, and any other moneys to be advanced to the Council under this article, shall be paid into a fund specially established for the purpose and which shall be known as the "National Council for Culture and the Arts Loan Fund".

(5) Sums received by the Accountant General from the Council in respect of advances made to the Council under subarticle (3) of this article shall be paid, as respects of amounts received by way of repayment into the Treasury Clearance Fund, and as respects of amounts received by way of interest into the Consolidated Fund.

23. (1) The Council shall, by the end of May of each year, submit to the Minister, a business plan for the following three financial years together with an estimated capital and recurrent expenditure and income for the following year:

Estimates of the Council.

Provided that the estimates for the first financial year of the Council shall be prepared and adopted within such time as the Minister may by notice in writing to the Council specify.

(2) In the preparation of such estimates the Council shall take account of any funds and other monies that may be due to be paid to it out of the Consolidated Fund during the relevant financial year, whether by virtue of this Act or an appropriation Act or of any other law; and the Council shall so prepare the said estimates as to ensure that the total revenues of the Council are at least sufficient to meet all sums properly chargeable to its revenue account including, but without prejudice to the generality of that expression, depreciation.

(3) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister responsible for finance may direct.

(4) A copy of the estimates shall, upon their adoption by the Council, be sent forthwith by the Council to the Minister and to the Minister responsible for finance.

(5) The Minister shall at the earliest opportunity and not later than six weeks after he has received a copy of the estimates from the Council approve the same with or without amendment, after consultation with the Minister responsible for finance.

24. (1) No expenditure shall be made or incurred by the Council unless it has been approved by the Minister as provided in article 22.

Expenditure to be according to approved estimates.

(2) Except for funds generated by the Council itself or received from non-State sources, the Council shall remain within the parameters of capital and recurrent expenditure allocated to it by the Minister as authorised by the Minister responsible for finance.

- (3) Notwithstanding the provisions of subarticles (1) and (2) -
- (a) until the expiration of six months from the beginning of a financial year, or until the approval of the estimates for that year by the Minister, whichever is the earlier date, the Council may make or incur

expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved by the Minister for the preceding financial year;

- (b) expenditure approved in respect of a head or sub-head of the estimates may, with the approval of the Minister given after consultation with the Minister responsible for finance, be made or incurred in respect of another head or sub-head of the estimates;
- (c) in respect of the first financial year, the Council may make or incur expenditure not exceeding in the aggregate such amounts as the Minister responsible for finance may, after consultation with the Minister, allow;
- (d) if in respect of any financial year it is found that the amount approved by the Minister is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Council may adopt supplementary estimates for approval by the Minister, and in any such case the provisions of this Act applicable to the estimates shall as near as practicable apply to the supplementary estimates.

Publication of approved estimates.

25. All estimates and supplementary estimates of the Council approved by the Minister shall, as soon as practicable, be laid on the Table of the House.

Accounts and audit.

26. (1) The Council shall ensure the proper keeping of accounts and other records concerning its operations and transactions, and shall ensure that a relative statement of accounts is prepared on a quarterly basis and another in respect of each financial year.

(2) The accounts of the Council shall be audited by an auditor or auditors to be appointed by the Council and approved by the Minister:

Provided that the Minister responsible for finance may, after consultation with the Minister, require the books and accounts of the Council to be audited or examined by the Auditor General who shall for such purpose have power to carry out such physical checking and any other certifications as he may deem necessary.

(3) The Council shall, on request of the Minister or the Minister responsible for finance, submit management reports and accounts as directed. The Council shall cause a copy of the statement of accounts duly audited to be transmitted to the Minister and to the Minister responsible for finance together with a copy of any report made by the auditors on that statement or on the accounts of the Council.

Contracts of supply or works.
Amended by:
L.N. 426 of 2007.

27. (1) The Council shall not, except with the approval of the Minister granted for special reasons and after consultation with the Minister responsible for finance, award or enter into any contract for the supply of goods or materials or for the execution of works, or for the rendering of services, to or for the benefit of the Council,

which is estimated by the Council to exceed six thousand and nine hundred and eighty-eight euro and twelve cents (6,988.12) in value, or such other amount as the Minister responsible for finance may by regulations prescribe, except after notice of the intention of the Council to enter into the contract has been published and competitive tenders have been issued.

(2) The Council shall follow procurement procedures as regulated by the Public Service (Procurement) Regulations, or any amendment thereto. S.L.174.02

28. The Council shall, not later than six weeks after the end of each financial year, send to the Minister a copy of its audited statements of accounts, a copy of the report made by the auditor or auditors about that statements or on the accounts of the Council, together with a report dealing generally with the activities of the Council during that financial year and containing such information relating to the proceedings and policy of the Council. The Minister shall cause a copy of every such report to be laid on the Table of the House and to be presented to the Minister responsible for finance and to the Auditor General as soon as practicable. Annual reports.

PART V

TRANSFER OF CERTAIN ASSETS TO THE COUNCIL

29. (1) The property and undertakings owned by the Government and used by it immediately before the date of the coming into force of this Part of this Act, and used by it for the operation of any of the functions which by this Act are being transferred to or vested in the Council, shall, on the date aforesaid, by virtue of this Act and without further assurance, be transferred to and vested in the Council or in the body corporate or entity so designated by the Minister by which they were held by the Government immediately before the said date. The provisions of this subarticle shall not apply to immovable property. Transfer of assets to the Council.

(2) The use and administration of the immovable assets from time to time specified in the Order made by the Minister responsible for lands in consultation with the Minister and published in the Gazette (hereinafter referred to as "the immovable assets") being immovable assets which immediately before the coming into force of this Part of this Act were owned by the Government and used by it for the operation of any of the functions which by this Act are being transferred to or vested in the Council, shall, with effect from such day as may be specified in any such Order and by the virtue of this Act and without any further assurance, be vested in the Council or in the body corporate or entity so designated in the said Order made by the said Minister.

(3) The transfer and vesting aforesaid shall extend to the whole of such property and undertakings and, without prejudice to the generality aforesaid, shall include all plant, equipment, apparatus, instruments, vehicles, craft, buildings, structures, installations, land, roads, works, stocks and other property, movable or immovable, assets, powers, rights and privileges and all things

necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid property or undertakings or other thing included therein as aforesaid.

(4) Any transfer of property, whether moveable or immovable, shall be subject to all those terms and conditions that the Minister may deem necessary to ensure that such property is exclusively used for cultural and artistic purposes or purposes ancillary thereto.

Construction of laws, etc.

30. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgements, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements, subsisting immediately before the date of the coming into force of this Part of this Act affecting or relating to any of the properties or undertakings transferred to the Council by or under this Act shall have full force and effect against or in favour of the Council, and shall be enforceable freely and effectually, as if instead of the Government or governmental authority the Council had been named therein or had been a party thereto, and otherwise in substitution of the Government or governmental authority.

Transitory provisions.

31. (1) When anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Part of this Act and such thing relates to any of the properties or undertakings or any right or liability transferred to the Council by or under this Act, such thing may be carried on and completed by or as authorised by the Council.

(2) Where immediately before the coming into force of this Part of this Act, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the properties or undertakings, or any right or liability transferred by or under this Act, the Council shall, as from the date aforesaid, be substituted in such proceedings for the Government, or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

(3) The Minister may by order make such incidental, consequential and supplemental provisions as he may deem necessary or expedient for the purpose of determining, as appropriate, the assets transferred to the Council by this Act and securing and giving full effect to the transfer of any property or undertaking or any right or liability to the Council by this Act and make such orders as may be necessary to make any powers and duties exercisable by the Government in relation to any of the transferred property or undertakings exercisable by or on behalf of the Council.

PART VI

MISCELLANEOUS

Persons deemed public officers.
Cap. 9.

32. The members of the Council, the members and all officers and employees of the Council shall be deemed to be public officers within the meaning of the Criminal Code.

33. (1) Subject to the provisions of subarticle (2) the Minister may, after consultation with the Council, make regulations in respect of any of the functions of the Council and for any matter prescribed under this Act.

Power to make regulations.

(2) The Minister may also by regulation amend the Schedules to this Act.

(3) Without prejudice to the provisions of subarticles (1) and (2), the Minister may also make regulations in respect of:

- (a) administrative and organizational procedures to be followed by the Council and the Executive Director and by any entity named in any one of the Schemes at the end of this Act;
- (b) schemes for the purpose of funding or subsidising cultural and artistic programmes, initiatives and events;
- (c) any matter related to officers and employees of the Council;
- (d) any matter related to the expenditure and income of the Council, its estimates and accounts, and their verification.

FIRST SCHEDULE

(Article 7)

List of Government Entities

1. Fondazzjoni Partrimonju Malti
2. Malta Society of Arts, Manufactures and Commerce
3. Manoel Theatre (Management Committee)
4. Mediterranean Conference Centre
5. National Orchestra
6. Centre for Creativity at St. James Cavalier

SECOND SCHEDULE

(Article 8)

List of Assets and Undertakings

1. Manoel Theatre (Management Committee)
 2. Mediterranean Conference Centre
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