ARTS COUNCIL MALTA ACT

Arrangement of Act

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CHAPTER 542

ARTS COUNCIL MALTA ACT

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

29th May, 2015*

ACT XV of 2015, as amended by Legal Notices 75 of 2017 and 138 of 2019, 286 of 2022, 118 of 2023 ,170 of 2024 and 1 of 2025.

PART I

Preliminary

Short title.

1. The short title of this Act is the Arts Council Malta Act.

Interpretation.

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

"associations and constituted bodies" means those organisations representing professionals and practitioners in the sector, listed in a notice issued by the Minister and published in the Gazette;

"Board" means the Board of Directors established by article 5;

"Chairperson" means the Chairperson of the Board and includes, in the circumstances mentioned in article 6(5), 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 12(2)(*e*)(vi);

"Council" means Arts Council Malta established by article 4;

"creative economy" means the economic activity generated by the cultural and creative sectors;

"cultural and creative sector or sectors" means the sector or sectors whose activities by individuals, organisations and enterprises operating in any of the activities listed in the First Schedule, are based on cultural values and, or artistic and other creative expressions, whether those activities are market or non-market orientated whatever the type of structure that carries them out, and irrespective of how that structure is financed. These activities are identified as a set of culturally significant, knowledge-based activities, born of creativity and cultural capital, that encompass the cycles of creation, production, distribution and preservation of cultural and creative goods and services, and which have the potential to generate cultural and social development, economic growth and employment;

"Cultural Organisations having a public interest" means

*see article 1(2) and (3) of this Act as originally promulgated, and *Legal Notice 203 of 2015*.

autonomous non-governmental bodies receiving advances out of the Consolidated Fund operating in the sectors, as contained in the Second Schedule;

"Director" means the person appointed under article 9(8);

"employee" means a person employed by the Council or by any of the entities listed in the Schedules;

"Executive Chairperson" means the person appointed under article 9(1) when such appointment is made by the Minister;

"Executive Director" means the person appointed under article 9(3) when such appointment is made by the Board;

"expert groups" means individuals and representatives as appointed in accordance with article 8;

"financial year" means any period of twelve months ending on the 31st December of each year or such other date as may be determined by the Minister;

"Minister" means the Minister responsible for culture;

"Public Cultural Organisations" means public bodies receiving advances out of the Consolidated Fund operating in the sectors as contained in the Third Schedule.

PART II

Establishment and Objectives of the Council

Establishment and legal personality of the Council.

3. (1) There shall be a body, to be known as Arts Council Malta, to implement the objectives and perform the functions assigned to it by or under this Act.

(2) The Council shall be a body corporate having a distinct legal personality and capable of entering into contracts, of acquiring and disposing of property of any kind for the purposes of its functions under this Act or any other law, of suing and being sued, and of doing all such things and entering into all transactions as are incidental or conducive to the exercise or performance of its functions as herein contained.

Objectives of the Council.

4. The objectives of the Council shall be to:

(*a*) advocate and be a strategic leader and catalyst for the cultural and creative sectors, (hereinafter referred to as "the sector") through *inter alia* the implementation of strategies, with a particular focus on:

(i) knowledge-based cultural and creative development;

(ii) education and training;

(iii) intelligence and data building;

(iv) business development, funding and investment;

(v) diversity and communities; and

(vi) internationalisation.

(*b*) promote innovation in the sectors and stimulate a creative ecosystem for the generation of contemporary

creative content;

(*c*) initiate, develop and promote strategies, programmes and initiatives necessary to enhance the performance of the sectors;

(*d*) act as a broker for the sectors and as a bridge between the sectors and other sectors;

(*e*) promote the awareness and utilisation of intellectual property in the sector;

(*f*) ensure the development of a sustainable creative economy;

(*g*) facilitate and promote the sustainable development of creative individuals and organisations;

(*h*) facilitate the participation in, and access to, cultural and creative activity;

(*i*) foster active and participatory citizenship in culture and promote cultural inclusion, equality, diversity and the freedom of creative expressions;

(*j*) increase the understanding, appreciation, enjoyment and expression of culture; and

(*k*) safeguard the dynamic development of those cultural characteristics, including intellectual, linguistic, traditional and folkloric, which identify the Maltese people.

PART III

Composition, Functions and Conduct of Affairs of the Council

The Board of the Council.

5. (1) The Board of the Council 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. At least one of the members shall be selected from a list of at least five persons nominated by associations and constituted bodies representing professionals and practitioners active in the sectors.

(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 any one other member of the Board as Deputy Chairperson and the member so designated shall have all the powers and perform all the functions of the Chairperson during his temporary absence or inability to act as Chairperson, or while the Chairperson is on vacation, or during any vacancy in the office of Chairperson:

Provided that if the Chairperson's absence is permanent or long-lasting, the Minister may appoint any other person as Chairperson in accordance with the provisions of this article, 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 Board if that person -

(*a*) is a member of the House of Representatives or of the European Parliament; or

(*b*) is a Judge or Magistrate; or

(*c*) is legally interdicted or incapacitated; or

(*d*) is convicted of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud, or of bribery or of money laundering, or has otherwise been sentenced to a term of imprisonment for a term not less than three months;

(*e*) is subject to disqualification under article 320 of the Companies Act; Cap. 386.

(*f*) 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 Board:

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 Board shall become vacant -

(*a*) on the expiration of the member's term of office;

(*b*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as member; or

(*c*) if the member resigns or if one of the scenarios mentioned in sub-article (4) materialises.

(6) A member of the Board 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 Board 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 Board; and any person so appointed shall, subject to the provisions of sub-articles (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 Board who has any direct or indirect interest in any contract made or proposed to be made by the Board, 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 Board after the relevant facts have come to his knowledge. Such disclosure shall then be recorded in the minutes of the Board, 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.

Provisions with respect to proceedings of the Board.

6. (1) The meetings of the Board shall be called by the Chairperson as often as may be necessary for the performance of its functions either on his own initiative or at the request of any two of the other members, but the Board shall meet at least once every two months.

(2) The quorum at all meetings of the Board shall be half the number of directors for the time being constituting the Board and shall in no case be less than three members.

(3) Subject to the provisions of this Act, the Board may regulate its own procedure.

(4) Subject to the foregoing provisions of this article, an act or proceeding of the Board shall be valid notwithstanding any vacancy among its members.

(5) In the absence of the Chairperson at any meeting of the Board, the Deputy Chairperson shall act as Chairperson; in the absence of both the Chairperson and of the Deputy Chairperson, the Board members present may select from amongst themselves a person to act as Chairperson at the meeting.

(6) The decisions of the Board shall be taken by a majority of the votes of the members present and voting. In the case of equal votes, the Chairperson or other person presiding at the meeting shall have a second or casting vote.

(7) There shall be paid to the members of the Board such remuneration, if any, as the Minister may from time to time determine.

(8) The Board may appoint any employee of the Council to act as Secretary to the Board.

(9) The Board may from time to time invite any person to attend one or more of its meetings to provide expert advice on specific issues:

Provided that such person is invited for a limited number of meetings in connection with a specific subject.

Functions of the Board.

7. (1) It shall be the duty of the Board to monitor the strategies and work of the Council, to ensure that the Council's objectives and functions are properly carried out in line with the policies and strategies which have an impact on the sectors.

(2) The functions of the Board are to:

(*a*) provide leadership, guidance, support and direction to the Council;

(*b*) propose to the Government policies on matters concerning the sectors;

(*c*) ensure that the Council's strategic plan is in line with Government policy;

(*d*) provide Government with such advice, information and assistance as may reasonably be required in relation to the sectors;

(*e*) provide Government with regular reports on the performance of the sectors and, where necessary, with any proposal for the furtherance of the sectors;

(*f*) approve initiatives, programmes and guidelines for schemes and incentives to be managed by the Council;

(*g*) provide any person with such advice, information and assistance as it considers appropriate in relation to the sectors and any other matter falling within its competence.

(3) For the better performance of its functions, the Board may, with the approval of the Minister, establish and dissolve directorates within the Council with particular responsibility for the discharge of any of the functions or activities of the Council.

Expert groups.

8. (1) The Board may establish and dissolve any number of expert groups for any purpose relating to its functions as it deems fit.

(2) The Board shall determine the composition of the said expert groups, in response to sectors' specific or thematic matters to be discussed.

(3) The members of the expert groups shall be appointed by or removed by the Board and shall hold office for such period and on such terms and conditions as the Board may deem appropriate.

(4) An expert group shall, for the better carrying out of the provisions of this Act, advise the Council on such matters and perform such other functions as the Board may specify in the instrument of appointment.

(5) Each expert group shall keep minutes of all meetings and shall forward copies of such minutes to the Board.

Direction of the affairs and business of the Council.

9. (1) Subject to the foregoing provisions of this Act, the direction of the affairs and business of the Council shall be the responsibility of the Board.

(2) The Minister may decide that the executive conduct of the Council, its administration and organisation and the administrative control of its officers and employees shall be vested in the Chairperson, who shall also have such other powers and functions as may from time to time be delegated to him by the Board.

(3) The decision of the Minister mentioned in sub-article (2) shall be made in writing in the letter of appointment of the Chairperson or at a later stage if the office of the Executive Director is vacant. Where such an appointment is made, the terms of engagement of the Executive Chairman shall be determined by the Minister.

(4) Where the Chairperson has not been vested with the powers mentioned in sub-article (2), the Board may, with the approval of the Minister, appoint an Executive Director with responsibility for

the executive conduct of the Council, its administration and organisation and the administrative control of its officers and employees, or other powers as may be determined by the Board.

(5) The appointment of the Executive Director shall be for a period of three years and may be extended for further periods of three years each.

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

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

(7) The Executive Chairperson or the Executive Director shall, subject to the general direction by the Board, 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 organisation 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.

(8) The Board may appoint Directors to manage any Directorate established by the Council in accordance with any function or activity of the Council, as may from time to time be determined by the Board.

(9) Directors appointed under sub-article (8) may be invited to attend the meetings of the Board but shall not vote at such meetings.

Conflict of interest.

10. (1) Where a member of the staff of the Council, or a consultant, advisor, board member, member of an expert group, or other person engaged by the Council, has any interest in any matter which falls to be considered by the Council, he shall -

(*a*) disclose to the Board the nature of his interest at the first meeting of the Board after such interest is acquired or in advance of any consideration of the matter, whichever is the earlier;

(*b*) not influence or seek to influence a decision in relation to such matter; and

(*c*) take no part in any consideration of such matter.

(2) Where a question arises as to whether or not a course of

conduct, if pursued by a person, would constitute failure by him to comply with the requirements of sub-article (1), the question shall be determined by the Board and the decision and its motivation shall be recorded in the minutes of the meeting during which the decision was taken.

(3) Where a disclosure is made to the Board pursuant to sub-article (1), particulars of the disclosure shall be recorded in the minutes of the relative meeting.

(4) Where a person to whom sub-article (1) applies fails to make the required disclosure, the Board shall decide the appropriate action to be taken which may include the removal from office or termination of the contract of the person concerned.

(5) Save as may be otherwise required or permitted for the purposes of this Act, or in the course of a prosecution for an offence committed against any of the provisions of this Act or of any other law, the Council shall, in carrying out the functions or duties under this Act, be bound by the provisions of the Professional Secrecy Act and shall not divulge any information obtained in the course of the discharge of its duties unless permission has been obtained from the Board. Cap. 377.

Legal and judicial representation.

11. (1) The legal and judicial representation of the Council shall be vested in the Chairperson:

Provided that the Board may appoint the Executive Director or from time to time any one or more of the Directors referred to in article 9(7), or any one or more of its officers or employees, to appear in its name and on its behalf in any judicial proceedings or on any act, contract, instrument or other document whatsoever.

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

Functions of the Council.

12. (1) It shall be the duty of the Council to develop the sector and promote Malta's cultural and creative sectors nationally and internationally through all forms of creative expression and to increase the accessibility of the public to culture and the arts.

(2) In the performance of its duties, the Council shall have the following functions:

(*a*) to advocate for the sectors and advise Government on:

(i) the development of cultural policy, the creative economy, policies for the sectors and all other matters concerning its functions or regulated by this Act;

(ii) structuring and integrating resources, at both Central and Local Government levels, in order to facilitate inter-industry linkages, enhance sustainability and competitiveness, and ensure minimal bureaucracy;

(iii) the signing of any bilateral, multilateral or international treaty, convention or agreement;

(iv) measures and action-plans to achieve the policies, strategies and objectives set by Government or by the Council; and

(v) the setting up of appropriate monitoring and evaluation mechanisms;

(*b*) to service the sectors by:

(i) acting as a single service point for the sectors;

(ii) supporting the sectors through the provision of appropriate advice, information, intelligence, programmes, incentives and initiatives;

(iii) hosting international and, or European offices resulting from Malta's bilateral, regional, or international obligations relevant to the sectors;

(iv) administering the Malta Cultural Institute for the international promotion of Malta's cultural and creative sectors;

(v) carrying out or giving effect to any relevant international convention or other international agreements relating to which the Government or the Council is or intends to become a party;

(vi) collaborating with other public entities, organisations and other persons for the promotion of artistic, cultural and creative initiatives in an environment which recognises the value of culture and creativity as central to a democratic and healthy community;

(vii) promoting intellectual property rights, and advising the sectors on aspects of their protection and commercialisation, and reporting feedback and proposals to the Comptroller of Industrial Property;

(viii) managing land, sites, premises, services, and facilities for the sectors;

(ix) setting up as necessary registers and lists according to the different sectors and the stakeholders and institutions involved therein; and

(x) overseeing the age-classification system for specific areas of the sectors;

(*c*) to develop and facilitate the implementation of strategies to:

(i) professionalise the sectors and develop expertise;

(ii) assist the sectors access national and international markets;

(iii) promote Malta as a hub for the sectors;

(iv) support industry networks and platforms that represent the sectors;

(v) encourage active participation in cultural

programmes and activities;

(vi) develop particular sub-sectors, niches or matters as may, from time to time, be considered relevant, important or necessary in connection with the advancement and furtherance of the sectors;

(vii) encourage excellence and innovation particularly through the use of new digital technologies; and

(viii) enhance the role of the sectors in education and in fostering citizenship, creativity and innovation;

(*d*) to be the national research point for the sectors by:

(i) conducting and disseminating research for the sectors, including compiling and managing records, statistics, and databases related to the sectors as may be appropriate in connection with its functions; and

(ii) collaborating on national and international research projects and data gathering exercises with key national entities;

(*e*) to invest in the sectors by:

(i) devising, managing, approving and awarding incentives which include benefits, advances, loans, awards, schemes, grants, funding programmes and other financial facilities requiring the disbursement of funds, including funds originating from national or international sources, to any natural or legal person, according to criteria established by or under this Act or any other enactment, if any;

(ii) allocating funds donated or entrusted to the Council by any person for a specific purpose or for the promotion of culture, the arts, and the creative industries 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 sub-paragraph (i) shall apply;

(iii) strengthening the organisations listed in the Second and Third Schedules to fulfil their remit which is in furtherance of National Cultural Policy and the strategic framework established by the Council and as stipulated by written instrument or as assigned to them by Government;

(iv) assessing and monitoring the strategies, financial estimates, and financial records of the organisations listed in the Second and Third Schedules and setting criteria for their funding

based on their role and contribution to the development of the sectors;

(v) advancing funds as may be allocated by Government for the management, administration and operational requirements of the entities listed in the Second and Third Schedules; and

(vi) subject to the provisions of this Act, the Council may exercise its functions through any of its officers or employees or through an entity, or agency authorised 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, and in such cases the contractor shall have such powers, rights and obligations as an officer or employee of the Council and shall, for the purposes of this Act and any regulation or directive made thereunder, be for all intents and purposes considered an employee of the Council.

(2) In carrying out its functions under this Act, the Council shall ensure that its strategy, action plans and activities conform to the aims and objectives of national economic planning, general Government and Ministry policy, and shall give primary consideration to the flexible and evolving nature of the creative economy.

Powers of the Council.

13. (1) The Council shall have the power:

(*a*) to provide information and issue guidelines to the public and to cultural entities, relating to the sectors;

(*b*) to 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 necessary, with the approval of the Minister;

(*c*) to perform such other functions as may from time to time be assigned to it by the Minister; and

(*d*) to otherwise advise the Minister on any matter connected with its functions under this or any other Act.

(2) The Council may, with the prior authorisation of the Minister, take part in the formation of a company, or enter into joint ventures or partnerships for the purpose of fulfilling any of its functions.

(3) The Council may require any person to provide it with any information, including financial information, for the purpose of ensuring compliance by that person with the provisions of this Act, regulations prescribed thereunder and decisions or directives made in accordance with this Act or any other law which the Council is entitled to enforce.

Public Cultural Organisations.

14. (1) The Minister may, upon the advice of the Council, by order establish bodies corporate having a distinct legal personality to administer and manage such assets or undertakings as may be identified to fall within the responsibilities of the entities listed in the Second Schedule.

(2) The Minister shall in such order establish the composition and powers of the governing bodies of such entities and shall establish rules relating to the accountability, financial control and audit of such entities 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 sub-article (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.

(5) The Minister may, by notice in the Gazette, add to or remove from the list of organisations listed in the Second and Third Schedules.

(6) The rules and provisions contained in Part V shall, *mutatis mutandis*, apply to all Public Cultural Organisations listed in the Second Schedule.

PART IV

Employment and Transfer of Staff

Staff appointments.

15. 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.

Detailing of public officers for duty with the Council.

16. (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.

(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 18; 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 sub-article (2) shall thereupon apply to the period of duration of such further direction in relation to such officer.

Status of public officer detailed for duty with the Council.

17. (1) Where any public officer is detailed for duty with the Council under any of the provisions of article 16, 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 all other intents and purposes remain and be considered and treated as a public officer.

(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 a 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

(*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 under the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Council.

Cap. 93.
Cap. 58.

(3) Where an application is made as provided in sub-article (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.

18. (1) The Council may, with the approval of the Prime Minister, offer to any officer detailed for duty with the Council under any of the provisions of articles 15 to 17 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 comprised 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 public 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.

(3) Every public officer who accepts permanent employment with the Council offered to him under the provisions of sub-article (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act and, saving the provisions of sub-article (6), be deemed to have ceased to be in the service of the Government and to have entered 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. Cap. 93. Cap. 58.

(4) Every such public 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. Cap. 58.

(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 a public officer who has accepted permanent employment with the Council as aforesaid during the period commencing on the date of such public officer's acceptance.

(6) (*a*) For the purpose of the Pensions Ordinance, the pensionable emoluments of such public officer on retirement shall be deemed to be the pensionable emoluments payable to a public officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the public officer retires from the Council. Cap. 93.

(*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 Pensions Ordinance less favourable than those to which he would have been entitled prior to such classification.

Cap. 93.

PART V

Financial Provisions

Council to meet expenditure out of revenue.

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

(2) For such purpose the Council shall levy all fees, rates and other payments prescribed or deemed to be 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 sub-article, 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 sub-article (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.

20. 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.

21. (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 this Act.

(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 sub-article (1).

Power to borrow or raise capital.

22. (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 fifty thousand euro (€150,000), there shall be required the written approval of the Minister.

Borrowing from Government.

23. (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 sub-article (1) shall be given to the House of Representatives as soon as practicable.

(3) Pending the raising of any such loan as is mentioned in sub-article (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, authorise 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 "Arts Council Malta Loan Fund".

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

Estimates of the Council.

24. (1) The Council shall 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:

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 comparison with previous estimates 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.

Expenditure to be according to approved estimates.

25. (1) No expenditure shall be made or incurred by the Council unless provision thereof has been made in the estimates approved as provided in article 21.

(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 sub-articles (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, 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 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; and

(*d*) if in respect of any financial year it is found that the amount approved in the estimates 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.

26. 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.

27. (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 the purpose have the power to carry out such physical checking and 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.

28. The Council shall not 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, except in accordance with regulations in force regulating the procurement of all goods and services in the public sectors as regulated by the Public Procurement Regulations.

S.L. 601.03.

Annual reports.

29. 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 those 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.

Deposit of revenues and payments by the Council.

30. (1) All monies accruing to the Council shall be paid into a bank or banks appointed as bankers of the Council by a resolution of the Council. Such monies shall, as far as practicable, be paid into any such banks from day to day, except such sum as the Council may authorise to be retained to meet petty disbursements and immediate cash payments.

(2) All payments out of the funds of the Council, other than petty disbursements not exceeding a sum fixed by the Council, shall be made by such public officer or public officers of the Council as the Council shall appoint or designate for that purpose.

(3) Cheques against and withdrawals from any bank account of

the Council shall be signed by such officer of the Council as may be appointed or designated by the Council for that purpose and shall be countersigned by the Chairperson, or such other member or officer of the Council as may be authorised by the Council for that purpose.

(4) The Council shall also make provision with respect to -

(*a*) the manner in which, and the officer or officers of the Council by whom, payments are to be authorised or approved;

(*b*) the title of any account held with the bank or banks into which the monies of the Council are to be paid, and the transfer of funds from one account to the other; and

(*c*) the method to be adopted in making payments out of funds of the Council,

and generally with respect to any matter which is relevant to the proper keeping and control of the accounts and books, and the control of the finances, of the Council.

PART VI

Miscellaneous

Persons deemed public officers.

Cap. 9.

31. 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.

Transfer of assets to the Council.

32. (1) The property and undertakings owned by the Malta Council for Culture and the Arts or Government and used by it immediately before the date of the coming into force of this Part, 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 Malta Council for Culture and the Arts or Government immediately before the said date. The provisions of this sub-article shall not apply to immovable property.

(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 were owned by the Malta Council for Culture and the Arts or 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, apparata, 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.

33. 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 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 Malta Council for Culture and the Arts or the Government or any other governmental authority or entity the Council had been named therein or had been a party thereto, and otherwise in substitution of the Malta Council for Culture and the Arts, the Government or any other governmental authority or entity.

Transitory provisions.

34. (1) Where anything has been commenced by or under the authority of the Malta Council for Culture and the Arts or the Government prior to the date of the coming into force of this Part 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, any legal proceedings are pending to which the Malta Council for Culture and the Arts or 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 Malta Council for Culture and the Arts or Government, or shall be made a party thereto in like manner as the Malta Council for Culture and the Arts or 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 or to any of the organisations listed in the Second Schedule 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 or to any of the organisations listed in the Second Schedule 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 or to any of the organisations listed in the Second Schedule.

Tax exemption. Cap. 123.

35. (1) Notwithstanding any provisions of the Income Tax Act or of any other applicable fiscal law, awards and grants in terms of programmes that may be developed by the Council to give effect to its powers and duties under this Act and received by any beneficiary, shall be exempt from tax:

Provided that such awards and grants do not take the form of income substitution.

(2) The Minister may make regulations to lay down the conditions relating to accounting, record keeping and reporting by the Council for the enjoyment of the exemption stated in the preceding sub-article.

Power to make regulations.

36. (1) In order to achieve the purposes of this Act, the Minister may, after consultation with the Council, make regulations to give effect to the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may include provision with respect to:

(*a*) the establishment of policies for implementation by the Council;

(*b*) any matter related to the expenditure and income of the Council, its estimates and accounts, and their verification;

(*c*) the definition and interpretation of terms and concepts to be used in regulations and guidelines;

(*d*) amending, substituting or repealing any of the Schedules;

(*e*) the creation of any entity, organisation, or person to exercise any of the functions of Arts Council Malta, or of the Public Cultural Organisations;

(*f*) the setting up of relevant classification systems;

(*g*) age-classification;

(*h*) schemes for the purpose of funding or investing in the sectors, cultural and artistic programmes, initiatives and events;

(*i*) any matter referred to in this Act; and

(*j*) the deletion or the transposition of any provisions in the relevant legislation into regulations with such modifications as the Minister may consider appropriate or necessary:

Provided that in so far as existing projects are concerned, nothing in any regulations made pursuant to this power shall affect any right, benefit or incentive currently in force in favour of any undertaking or beneficiary nor impose any more onerous conditions or obligations than currently in force and in case of conflict between the regulations and the relevant legislation, the provisions

of the relevant legislation shall prevail.

(2) The Minister, in concurrence with the Minister responsible for foreign affairs, may establish a Maltese Cultural Institute, referred to the Council for Maltese Living Abroad Act, for the promotion and development of the sector outside Malta, and for such purpose to regulate the functions and operation of such Institute. Cap. 515.

(3) The Minister, in concurrence with the Minister responsible for finance, may propose to make or modify regulations in accordance with the provisions of this Act to provide that an undertaking may be wholly or partly exempted from being liable to any tax which, but for the provisions of such regulations, would have been payable, or may introduce any other measure of a fiscal nature.

Saving.

37. (1) Any subsidiary legislation made under the Malta Council for Culture and the Arts Act* shall remain in force as if it were made under this Act until such time as it may be amended or revoked by subsidiary legislation made under the provisions of this Act.

(2) Any reference in any law to the "Malta Council for Culture and the Arts" or to the "Malta Council for Culture and the Arts Act" shall be construed as a reference to the "Arts Council Malta" or to the "Arts Council Malta Act", respectively.

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* Repealed by this Act.

FIRST SCHEDULE

Cultural and Creative Sectors

The table below provides a general framework encompassing activities within the cultural and creative sectors.

1. Heritage	2. Arts	3. Media	4. Creative Business Services
1.1 Crafts	2.1 Visual Arts	3.1 Publishing and Printed Media	4.1 Design
1.2 Antiques	2.2 Music	3.1.1 Books	4.1.1 Interior Design
1.3 Traditional Festivals and Celebrations	2.3 Performing Arts	3.1.2 Press	4.1.2 Graphic Design
1.4 Cultural Sites	2.3.1 Theatre	3.1.3 Other publications	4.1.3 Fashion Design
1.4.1 Archaeological Sites	2.3.2 Dance	3.2 Audiovisuals	4.1.4 Product Design
1.4.2 Museums		3.2.1 Film & Video Production and Distribution	4.2 Software
1.4.3 Environmental Heritage		3.2.2 Film servicing	4.3 Creative Services
1.5 Libraries		3.2.3 Television	4.3.1 Architecture
1.6 Archives		3.2.4 Radio	4.3.2 Advertising
		3.2.5 Videogames	4.3.3 Other creative services
		3.2.6 Other Broadcasting	4.4 Cultural Services

SECOND SCHEDULE

Amended by:
L.N. 75 of 2017;
L.N. 138 of 2019;
L.N. 286 of 2022;
L.N. 118 of 2023;
L.N. 170 of 2024;
L.N. 1 of 2025.

Public Cultural Organisations

a. Teatru Manoel
b. Mediterranean Conference Centre
c. Agency for the Malta Philharmonic Orchestra
d. Fondazzjoni Ċentru għall-Kreattività
e. Pjazza Teatru Rjal
f. Fondazzjoni Valletta 2018
g. National Agency for the Performing Arts
h. Malta International Contemporary Art Space (MICAS)
i. Festivals Malta Agency
j. De Valette Chamber Orchestra
k. Jesuits Church Foundation

THIRD SCHEDULE

Cultural Organisations having a public interest

a. Fondazzjoni Patrimonju Malti
b. Malta Society of Arts, Manufactures and Commerce
c. St John's Co-Cathedral Foundation
