

HARARE CITY LIBRARY ACT

Chapter 25:05 HARARE CITY LIBRARY ACT

Acts 24/1961, 26/1968, 4/1983, 22/2001; R.G.N 59/1974.

ARRANGEMENT OF SECTIONS

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AN ACT to establish a board of trustees for the control and management of the Harare City Library; to transfer the assets and liabilities of the trust established under the Queen Victoria Memorial Act, 1951, to the aforesaid board of trustees and to the Trustees of the National Museum of Southern Rhodesia established under the National Museum Act [Chapter 71 of 1963]; and for matters incidental and supplemental to the foregoing.

[Date of commencement: 2nd June, 1961.]

WHEREAS the land granted by the Government in the City of Harare for the purpose of a memorial to Her late Most Gracious Majesty Queen Victoria, the building erected on such land as such memorial and known as the Queen Victoria Memorial and all other buildings erected on such land before the 2nd June, 1961, have been sold by the board of trustees constituted by the Queen Victoria Memorial Act, 1951 (hereinafter called the former trustees and the former Act, respectively) under the provisions of that Act and the proceeds thereof have been apportioned equally between the former trustees and the Trustees of the National Museum of Southern Rhodesia established under the National Museum Act [Chapter 71 of 1963] (hereinafter called the museum trustees);

AND WHEREAS the movable property, articles and assets of the aforesaid trust have been allocated to and divided between the former trustees and the museum trustees;

AND WHEREAS the functions of the Queen Victoria Memorial as a public library and a public museum have now been separated, those of the library being controlled by the former trustees and the committee established by the former Act, and those of the museum being controlled by the museum trustees;

AND WHEREAS owing to financial reorganization and other causes the former trustees, the aforesaid committee and the museum trustees have expressed the desire that the library and the museum should henceforth function as separate institutions;

AND WHEREAS it is expedient that effect should be given to the desires of the former trustees, the aforesaid committee and the museum trustees:

NOW, THEREFORE, be it enacted as follows—

1. Short title

This Act may be cited as the Harare City Library Act [Chapter 25:05].

2. Interpretation In this Act—

“Board” means the board of trustees established under section three;

“Committee” means the committee of management established under section eight;

“former Act” means the Queen Victoria Memorial Act, 1951 (No. 38 of 1951);

“former board” means the board of trustees established under the former Act;

“former committee” means the committee of management established under the former Act;

“former trust” means the Queen Victoria Memorial established under the former Act;

“Library” means the public library referred to in section seven;

“Minister” means the Minister of Sports, Recreation and Culture or any other

Minister to whom the President may assign the administration of this Act;

“subscriber” means a subscriber to the Library;

“Trust” means the trust established under section four.

3. Establishment and constitution of Harare City Library trustees

(1) There is hereby established a board of trustees to be known as the Harare City Library Trustees.

(2) The Board shall consist of the Mayor of the City of Harare and the Master of the High Court or their successors in office, permanent or acting.

(3) The members of the Board shall not be personally liable for any bona fide action they may take in such capacity.

4. Harare City Library Trust

(1) The movable property, articles and assets allocated to the library section of the former trust in terms of section 6 of the former Act and one-half of the proceeds of the sale of the land and buildings which constituted the former trust are hereby transferred to and vested in the Board in trust for the people of Zimbabwe, and any property subsequently acquired by the Board or the Committee and any grants, bequests or donations made to the Board, the Committee or the Library shall vest in the Board.

(2) The Trust shall be called the Harare City Library Trust, and all property, articles, assets, grants, bequests and donations mentioned in sub section (1) shall constitute the Trust.

(3) All land purchased in terms of section six shall be registered in the name of the Board.

(4) All rights, liabilities and obligations which immediately before the 2nd June, 1961, were vested in or incurred by the former board and the former committee are hereby transferred to and vested in the Board and the Committee respectively.

(5) All agreements and contracts which were lawfully entered into by the former board and the former committee and which were subsisting immediately before the 2nd June, 1961, shall be of full effect against or in favour of the Board or the Committee, respectively, as fully and effectually as if instead of the former board or the former committee, as the case may be, the Board or the Committee had been named therein and had been a party thereto.

(6) All proceedings or causes of action pending or existing immediately before the 2nd June, 1961, by or against the former board may be continued and enforced by or against the Board as they might have been by or against the former board if this Act

had not been passed.

5. Transfer of former museum section to Trustees of the National Museum

The movable property, articles and assets allocated to the museum section of the former trust in terms of section 6 of the former Act and one-half of the proceeds of the sale of the land and buildings which constituted the former trust are hereby transferred to and vested in the Trustees of the National Museum of Southern Rhodesia established by the National Museum Act [Chapter 71 of 1963].

6. Powers of Board

(1) The Board may, after consultation with the Committee and with the approval of the Minister—

(a) purchase immovable property;

(b) erect buildings on land held by it in trust;

(c) sell or dispose of any immovable property held by it in trust for the purpose of acquiring other immovable property;

(d) invest—

(i) any moneys obtained from the sale or disposal of immovable property in terms of paragraph (c); and

(ii) any interest derived from such investments; which are not required for immediate use; for the purpose of the Trust.

(2) Any property so purchased or acquired and any buildings so erected shall vest in the Board and form part of the Trust.

7. Purposes of Trust

The Trust shall be devoted exclusively to providing, maintaining and managing a public library, to be known as the Harare City Library, to literary and artistic purposes in connection therewith and other purposes incidental thereto.

8. Harare City Library Committee

(1) The general direction and management of the Library shall be conducted by a committee of management consisting of ten members, of whom three shall be nominated by the Minister, one shall be nominated by the City Council of Harare and six shall, subject to section ten, be elected by the subscribers.

(2) The committee shall be known as the Harare City Library Committee and shall be a body corporate capable in law of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The members of the Committee shall not be personally liable for any bona fide action they may take in such capacity.

9. Tenure of office of Committee

(1) At the close of every annual meeting referred to in section ten—

(a) of the members of the Committee nominated by the Minister, the one who has been longest in office without re-nomination shall retire; and

(b) the member of the Committee nominated by the City Council of Harare shall retire; and

(c) of the elected members of the Committee, those two who have been longest in office without re-election shall retire.

(2) Any member so retiring shall be eligible for re-nomination or re-election at such meeting or any subsequent annual meeting.

10. Election and appointment of members of Committee

(1) The election of two members of the Committee shall take place on the third Monday in January of every year.

(2) The chairman of the meeting of subscribers at which members of the Committee are elected shall notify the Minister of the result of such election.

(3) On receipt of such notification the Minister may, if he disapproves of any person so elected, disallow the election of such person and, after consultation with the chairman of the Committee, appoint another person in his stead, who shall for all the purposes of this Act be deemed to have been duly elected at the meeting mentioned in subsection (2): Provided that if the person whose election is so disapproved is the chairman of the Committee, it shall be lawful for the Minister to make such appointment without such consultation.

(4) The Minister shall forthwith notify the Committee of any disallowance and appointment made in terms of subsection (3).

(5) Nothing in subsection (3) shall invalidate any act done or decision made by any person whose election is disallowed as aforesaid where such act or decision was done or made before the receipt by the Committee of the Minister's notification in terms of subsection (4).

11. Leave of absence

The Committee may, by resolution, grant any of its members leave of absence for any period not exceeding seven months. If leave of absence is so granted—

- (a) the Minister or, as the case may be, the City Council of Harare, in the case of a nominated member;
- (b) the Committee, in the case of an elected member; may appoint a suitable person to act in the place of such member during his absence.

12. Vacancies

(1) If a member of the Committee—

- (a) dies; or
 - (b) resigns; or
 - (c) is absent without the permission of the Committee from three consecutive ordinary meetings thereof; or
 - (d) becomes incapacitated by mental or physical illness or otherwise unable or unfit to discharge the functions of a member of the Committee;
- his office shall become vacant.

(2) If a vacancy occurs in the Committee—

- (a) the Minister or, as the case may be, the Harare City Council, in the case of a nominated member;
- (b) the committee, in the case of an elected member; may appoint a suitable person to fill such vacancy until the expiry of the period

during which such member would, but for the vacation of his office, have continued in office.

13. Chairman, quorum and voting of Committee

(1) The Committee shall elect one of its members as chairman. If at any meeting of the Committee the chairman is absent, the members present shall elect one of their number as chairman for that meeting.

(2) The chairman of the Committee shall have a deliberative and a casting vote.

(3) Five members of the Committee shall form a quorum at any meeting thereof.

(4) Subject to subsection (2), a decision of the majority of the members of the Committee present at any meeting shall be deemed to be a decision of the Committee.

(5) The members of the Board may attend and take part in any meeting of the Committee but they shall not have a vote.

14. Powers of Committee

The Committee shall have power—

(a) to employ, on such terms and conditions as it thinks fit, such staff as may be necessary for conducting the business of the Library, and to suspend from duty or discharge any member of such staff;

(b) to provide for such employees by means of insurance or a pension or provident fund pecuniary benefits on retirement, death or termination of service, or in the event of sickness or injury;

(c) to insure with any company or persons against any losses, damages, risks and liabilities which the Committee may incur;

(d) subject to this Act, to enter into any contract or agreement, which may be executed on behalf of the Library by any person or persons generally or specially authorized by the Committee for that purpose;

(e) to sell, let or dispose of any movable property held by the Board in trust;

(f) to hire property, both movable and immovable, on behalf of the Trust;

(g) to borrow money on behalf of the Trust: Provided that no immovable property held by the Board in trust shall be hypothecated as security therefor without the consent of the Board;

(h) to administer the funds of the Trust and in particular—

(i) subject to section six and the conditions of any grant, donation or bequest, to receive any moneys accruing to or vested in the Trust and to expend such moneys for the purposes of the Trust;

(ii) to raise funds for the purposes of the Trust by the imposition of subscriptions or otherwise;

(iii) to purchase movable property on behalf of the Trust;

(i) with the consent of the Board, to let any immovable property held by the Board in trust;

(j) generally, to do all lawful things incidental or conducive to the proper control and management of the Library and the Trust.

15. Financial provisions

- (1) The Committee shall keep proper books of account and other records in relation to its financial operations and the property of the Trust.
- (2) The Committee shall maintain an account with a bank and shall pay to the credit of such account all moneys received on behalf of the Trust. No moneys shall be withdrawn from such account except by means of cheques signed by a person or persons authorized thereto by the Board.
- (3) Any moneys of the Trust not required for immediate use may be invested by the Committee in a manner approved by the Board.
- (4) The accounts of the Trust shall be open to inspection by—
 - (a) any person appointed by the Minister; or
 - (b) the Board; or
 - (c) any subscriber.

16. Audit of accounts

The accounts of the Trust shall be audited annually by such person as the Board, with the approval of the Minister, may appoint.

17. By-laws

- (1) The Committee may make by-laws—
 - (a) regulating the procedure at meetings of the Committee;
 - (b) regulating the manner in which persons may become subscribers;
 - (c) prescribing the mode of election of members of the Committee;
 - (d) safeguarding the property vested in and acquired by the Board or the Committee;
 - (e) regulating access to the Library;
 - (f) providing for the payment by subscribers of subscriptions and fines at rates to be fixed from time to time;
 - (g) providing for the making of deposits on books and their forfeiture;
 - (h) generally, for the efficient control and management of the Library.
- (2) Such by-laws may prescribe a penalty for a contravention thereof of a fine not exceeding level one. [amended by Act 22 of 2001 with effect from the 10th September, 2002.]
- (3) No such by-law shall take effect until it has been published in the Gazette and a newspaper circulating in Zimbabwe.