
Fifth Session Third Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 9 of 1991

[L.S.]

AN ACT to establish a National Carnival Commission of
Trinidad and Tobago

[Assented to 5th August, 1991]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:—

1. This Act may be cited as the National Carnival ^{Short title}
Commission of Trinidad and Tobago Act, 1991.

Interpretation

2. In this Act "Minister" means the Minister to whom the responsibility for Culture is assigned.

Establishment and incorporation of Commission

3. There is hereby established a body corporate to be known as the National Carnival Commission of Trinidad and Tobago (hereinafter referred to as "the Commission") which shall be responsible to the Minister.

Objects of the Commission

4. The objects of the Commission are as follows:

- (a) to make Carnival a viable national, cultural and commercial enterprise;
- (b) to provide the necessary managerial and organisational infrastructure for the efficient and effective presentation and marketing of the cultural products of Carnival; and
- (c) to establish arrangements for ongoing research, the preservation and permanent display of the annual accumulation of Carnival products created each year by the craftsmen, musicians, composers and designers of Carnival.

Composition of the Commission

5. (1) The Commission shall be managed by a Board of Commissioners (hereinafter referred to as "the Board") which shall consist of nine persons who have demonstrated an interest in the cultural or commercial aspects of Carnival and with experience or training in finance, management, government, international trade, law, export-oriented business, commerce, culture or the arts, appointed by instrument in writing by the Minister and which shall include—

- (a) one nominee from the organisation that is most representative of the steelband movement;
- (b) one nominee from the organisation that is most representative of carnival bands;
- (c) one nominee from the organisation that is most representative of calypsonians;
- (d) such other persons as the Minister may appoint.

(2) A Commissioner appointed under subsection (1) shall serve for a period of two years, but his appointment may be terminated by the Minister—

- (a) where he is unable to perform his duties, performs his duties in a negligent manner or is in dereliction of duty;

- (b) where the Organisation that nominated him requests in writing that the Minister revoke the appointment and appoint someone else; or
- (c) where the Commissioner resigns.

(3) A Commissioner appointed under subsection (1) shall be eligible for reappointment to the Board.

(4) The Minister shall appoint from among the Commissioners, a Chairman and a Deputy Chairman.

(5) Commissioners shall hold office on such terms and conditions as the Minister may determine, but a Commissioner shall be deemed to have vacated his office where—

- (a) he is absent without leave of the Board from three consecutive statutory meetings of the Board; or
- (b) he fails to attend a minimum of eight statutory meetings without leave of absence in any calendar year.

(6) A commissioner shall be allowed—

- (a) a grant of leave of absence for periods not exceeding six months in the aggregate; and
- (b) postings outside of Trinidad and Tobago for specific periods for purposes connected with the work of the Commission.

(7) Not more than three Commissioners in the aggregate shall be allowed a grant of leave of absence under subsection (6)(a) or a posting outside of Trinidad and Tobago under subsection (6)(b) at any one time.

(8) Where a vacancy arises on the Board whether by reason of death, resignation or other termination of the appointment of a Commissioner, that vacancy may be filled by way of appointment made by the Minister for the unexpired portion of the term of the member whose place is being filled.

(9) The names of all the members of the Board as first constituted and every change in the membership thereafter shall be published in the *Gazette*.

(10) The Chairman, the Deputy Chairman or any Commissioner may at any time resign his office by instrument in writing addressed to the Minister.

Meetings

6. (1) The Board shall meet at least once a month and at such other times as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Board may determine.

(2) The Chairman may, at any time, convene a special meeting and shall call a special meeting within seven days of receipt of a requisition for that purpose addressed to him, in writing, and signed by two Commissioners.

(3) The Chairman, or in his absence, the Deputy Chairman shall preside at all meetings, but where both the Chairman and Deputy Chairman are absent, the Commissioners present shall appoint a Chairman from amongst them to preside at the meeting.

(4) Five Commissioners shall constitute a quorum and a meeting shall be deemed to be properly constituted notwithstanding any vacancy in the membership of the Board or any defect in the appointment of Commissioners.

(5) The Chairman shall have an original vote and where the voting is equal, he shall have a casting vote.

(6) The minutes, in proper form, of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman presiding at a subsequent meeting.

(7) A signed copy of the confirmed minutes of each meeting shall be submitted to the Minister.

(8) The Board may co-opt any one or more persons to attend a meeting of the Board for the purpose of assisting or advising the Board or the Chairman, but no such co-opted person shall have a right to vote.

(9) The Board may regulate its own proceedings at meetings.

Remuneration

7. The Commission shall pay to each Commissioner, in respect of his office, such remuneration and allowances, as the Minister may determine, and to the Chairman, in respect of his office, such remuneration or allowances, in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member, as the Minister may determine.

8. (1) The Board may appoint such committees consisting ^{Committees} of such persons as it thinks fit to advise on any aspect of its functions.

(2) A Commissioner shall be appointed to each Committee appointed under subsection (1).

(3) The Board may delegate a Commissioner or Commissioners to perform any of its functions, exercise any of its powers or chair any of its Committees as it may see fit but the power of delegation shall not be delegated.

(4) The Board shall appoint, *inter alia*, a Tenders Committee, a Finance Committee and a Regional Carnival Committee.

9. (1) The Commission may do all such things as are ^{Functions of the Commission} necessary or convenient for the purpose of exercising the powers and performing the duties and functions conferred or imposed on it by the Minister and this Act and in particular the Commission shall perform the following functions:

- (a) the regulation, co-ordination or conduct of all carnival activities throughout the country held under the aegis of the Government;
- (b) the development, maintenance and review of rules, regulations and procedures for the conduct of carnival festivities throughout the country;
- (c) the identification, evaluation and promotion of all Carnival related industries with a view to the enhancing and marketing of their cultural products and services; and
- (d) the development and implementation of a marketing strategy for Carnival with a view to optimising the revenue earning potential of the festival and its contribution to the national economy, considering—
 - (i) the unexplored potential of Carnival;
 - (ii) the possibility of marketing of carnival products and activities in domestic and export markets;
 - (iii) the contribution by the private sector to the funding of specific aspects of Carnival; and
 - (iv) the establishment of closer promotional links between the tourist industry and the carnival industry.

(2) The Commission may establish subsidiary companies and companies engaged in related activities as well as acquire equity in other companies and in other undertakings engaged in carnival activities.

(3) The powers vested in the Commission under subsection (2) are exerciseable subject to the prior approval of the Minister and the Minister with responsibility for Finance.

Annual reports

10. The Commission shall present to the Minister annual reports on all its activities no later than three months after the close of the financial year.

Declarations of interest

11. (1) A Commissioner or any member of a Committee appointed by the Board whose interest is likely to be affected, whether directly or indirectly, by a decision of the Board on a subject matter, shall disclose the nature of the interest by writing to the Secretary not later than four days after the subject matter has come to his knowledge.

(2) A disclosure made under subsection (1) shall be brought to the attention of the next statutory meeting of the Board and after the disclosure, the Commissioner or member of a Committee appointed by the Board making it shall not, unless the Board otherwise directs, be present or take part in the deliberations of any meeting when the matter is being discussed or decided and, in the case of a Commissioner, he shall not vote on the matter.

Exemptions and responsibilities

12. (1) No action shall be brought against any Commissioner or officer in respect of any act done *bona fide* in the execution of his duties.

(2) Where any Commissioner is exempt from liability as aforesaid, the Commission shall be liable to the extent that it would be if the Commissioner was a servant of the Commission.

(3) Each officer charged with the receipts, accounting for or disbursement of moneys or with the custody or delivery of stores or other property belonging to the Commission shall be individually responsible for—

(a) the due and efficient discharge of his respective duties;

(b) the exercise of proper supervision of the accounts kept or controlled by him and all property entrusted to his care; and

- (c) the due observance of all rules and regulations and of all orders and instructions prescribed for his guidance.

13. (1) For the purpose of the proper discharge of its functions the Commission may appoint or employ staff as it considers necessary, whether on a permanent or temporary basis, including a Chief Executive Officer, who shall be an *ex officio* member of the Board, a Secretary and other officers and employees. Staff of the Commission

(2) The Chief Executive Officer shall be subject to the control of the Commission and may be employed on a short term contract of not less than two years.

14. (1) The Commission shall within five years of its establishment provide for the establishment and maintenance of a pension scheme for the benefit of its officers and employees. Pension Scheme

(2) The Commission shall provide, in the pension scheme, for an employee's service with the Commission, prior to the establishment of the pension scheme, to be taken into account in calculating his benefits under the pension scheme.

(3) Where an employee of the Commission dies or retires before the establishment of the pension scheme, the Commission shall be responsible for payment of superannuation or death benefits accruing to that employee.

(4) The basis for the accrual and payment of superannuation or death benefits shall be the same as that which was applicable to the employee prior to his transfer, including a transfer on secondment, or appointment to the Commission.

(5) The pension scheme may enable the Commission to—

- (a) grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependents of, its officers and employees;
- (b) establish contributory superannuation schemes, and establish and contribute to superannuation funds for the benefit of its officers and employees;

- (c) enter into and carry into effect agreements with any insurance company or other association or company for securing gratuities, pensions or allowances to any such officer or employee or his widow, family or dependent; and
- (d) give donations or subscriptions to charitable institutions, sick funds or benevolent funds calculated to benefit its officers and employees.

Transfer of
officer

15. (1) An officer in the public service or a person in the service of a statutory authority may, with the approval of the appropriate Service Commission or other authorised agencies, be transferred to the service of the Commission, including a transfer on secondment, or from the service of the Commission to the public service or the service of a Statutory Authority on secondment.

(2) Where a transfer on secondment is effected the Minister, the Statutory Authority or the Commission as the case may be, shall make such arrangements as may be necessary to preserve the rights of the officer or person, so transferred, to any pension, gratuity or other benefit for which he may have been eligible had he not been transferred or seconded.

(3) Where a transfer, including a transfer on secondment, is effected, the transferred officer shall become a member of the pension scheme, or, where the transfer becomes effective before the establishment of that scheme, he shall become a member within one year of its establishment.

(4) A transfer, including a transfer on secondment, shall be on such terms as may be acceptable to the Minister, the Statutory Authority or the relevant Service Commission, as the case may be, the Commission and the officer concerned.

(5) Notwithstanding anything contained in any written law to the contrary, a person appointed to the Commission under section 13, or any officer transferred on secondment from the Public Service or the service of a Statutory Authority to the service of the Commission, shall not in the performance of his duties with the Commission, be regarded as the holder of an office in the Public Service

16. (1) The Commission shall have its Principal Office in Trinidad and Tobago. Office and branches of the Commission

(2) The Commission may establish branches in or outside of Trinidad and Tobago.

(3) The branches of the Commission shall be financed by the Commission, shall implement the policies of the Commission and shall be fully accountable to the Commission.

(4) The branches of the Commission shall be fully responsible for the management of their affairs and shall have exclusive authority, within the regions under their purview to—

- (a) work with associations and organisations seeking to enhance the Carnival in their regions or to manufacture saleable carnival products;
- (b) provide advice and assistance in organising and administering regional Carnivals;
- (c) encourage bilateral exchanges with foreign organisations or associations with the prime purpose of promoting the Carnival of Trinidad and Tobago; and
- (d) make recommendations to the Commission for the enhancement of Carnival and Carnival related activities in their regions.

17. (1) The Commission shall have a seal which shall be kept in the custody of the Chairman or the Deputy Chairman as the Board may determine and shall be authenticated by the signature of the Chairman and the Secretary or in the absence of the Chairman, by the Deputy Chairman and the Secretary. Seal

(2) All documents, other than those required by law to be under seal, made by the Commission and all decisions of the Commission may be signified under the hand of the Chairman or the Secretary or a member duly authorised by the Commission.

18. (1) There is hereby established the National Carnival Commission Fund (hereinafter referred to as "the Fund"). The National Carnival Commission Fund

(2) The Fund shall comprise—

- (a) moneys appropriated by Parliament for the purpose;
- (b) revenue earned from services rendered;
- (c) gate receipts, sales, donations, grants and royalties;
- (d) loans raised by the Commission;
- (e) all sums from time to time falling due to the Commission in respect of its operations;
- (f) funds generated from Bond issues guaranteed by the Minister with responsibility for Finance or assets of the Commission; and
- (g) funds provided from such sources as the Minister with responsibility for Finance may approve.

(3) The Minister with responsibility for Finance may give directions as to the amounts in which and times at which moneys referred to in subsection (2)(a) are to be paid to the Commission.

(4) Moneys appropriated under subsection (2)(a) may be disbursed only where the budget of the Commission is approved and laid in the Parliament in accordance with section 21.

Use of the Fund

19. (1) The money comprising the Fund shall be applied in defraying the following charges:

- (a) the remuneration, fees and allowances of Commissioners and members of any Committee appointed by the Commission;
- (b) the salaries, fees, remunerations, gratuities, severance pay and other benefits of the officers, agents, servants and technical and other advisers of the Commission;
- (c) principal and interest on any loan raised by the Commission;
- (d) such sums as may be considered appropriate to be set aside in respect of depreciation on the property of the Commission; and
- (e) any other expenditure or obligation authorised by the Commission and properly chargeable to revenue.

(2) The Commission may create reserve funds out of which money may be expended for the establishment of academic, technical or vocational grants or for such other charitable or benevolent purposes as may, in the opinion of the Board be beneficial to or for the enhancement of the welfare of artistes, designers and composers of musical works engaged in Carnival and other worthy persons contributing to Carnival activities and the financing of projects for future expansion.

(3) Where the Commission has expended money under subsection (2) it shall list the names of the recipients and the amount of money given to each recipient together with a brief explanation of the reason for the expenditure in a Schedule to the annual financial statement of the Commission required under section 24(2).

(4) The funds of the Commission that are not immediately required to be expended in the meeting of any obligation or the discharge of any function of the Commission may be invested from time to time in securities approved by the Minister with responsibility for Finance for investment by the Commission.

20. (1) The Commission shall have the power to own real Power to own property and personal property.

(2) The Board shall be responsible for the management and control of the property referred to in subsection (1) and of the assets of the Commission.

21. (1) The Commission shall prepare in such form as the Budget of the Commission Minister with responsibility for Finance directs, estimates of income and expenditure of the Commission for each financial year, and if he so directs, for any other period specified by him and the Commission shall submit estimates so prepared not later than such date as that Minister directs.

(2) The Minister shall lay the budget as approved by him and the Minister with responsibility for Finance before Parliament within fourteen days of the approval or, if Parliament is not in session, within fourteen days after the commencement of the next sitting.

22. (1) The Commission may, with the approval and Power to borrow direction of the Minister with responsibility for Finance, borrow money for the purpose of meeting any of its obligations or discharging any of its functions.

(2) Approval of the Minister with responsibility for Finance may be general or limited to a particular transaction and may be either unconditional or subject to such conditions as he thinks fit.

(3) The Minister with responsibility for Finance may guarantee in such manner, and on such conditions as he thinks fit, the payment of the principal and interest in respect of any money borrowed by the Commission.

(4) Where the Minister with responsibility for Finance is satisfied that there has been a default in the repayment of any principal or interest guaranteed under this section, he shall direct the repayment out of the general assets and public funds of Trinidad and Tobago of the amount in respect of which there has been such default.

Financial year

23. The financial year of the Commission shall be the twelve-month period ending on the 31st July in each year.

Accounts
and audit

24. (1) The Commission shall keep proper accounts and records of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of the moneys of the Commission are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Commission and the incurring of liability by the Commission.

(2) The Commission shall submit a financial statement in respect of a financial year to the Minister no later than three months after the close of the financial year.

(3) The Minister shall cause a copy of the financial statement referred to in subsection (2) to be laid in Parliament within one month after he has received it or if Parliament is not in session, within one month after the commencement of the next sitting.

(4) The accounts of the Commission shall be subject to audit by the Auditor General in all respects as if they were the public accounts of Trinidad and Tobago.

(5) The Commission shall forward to the Minister a copy of the audited statement of accounts together with any report thereon made by the Auditor General not later than one month after the receipt thereof and the Minister shall ensure that the audited statement of accounts and

report are laid in Parliament within one month thereafter, or if Parliament is not in session, within one month after the commencement of the next sitting.

(6) In addition to the annual audit, the Auditor General may, at any time, audit the accounts and examine the records of financial transactions of the Commission and shall forthwith draw to the attention of the Chairman and Minister any irregularities disclosed by such audit and examination, which, in the opinion of the Auditor General, are of sufficient importance to be so reported.

(7) The Commission, with the approval of the Minister with responsibility for Finance, may write-off bad debts.

25. The Central Tenders Board Ordinance shall not apply to the work of the Tenders Committee. Central Tenders Board Ordinance

26. The Commission may, with the approval of the Minister, make regulations for— Regulations

- (a) the operation and qualification of the Pension Scheme established under section 14;
- (b) the Constitution, powers and function of committees appointed under section 8;
- (c) controlling its financial operations; and
- (d) the better administration of the Act.

Passed in the House of Representatives this 8th day of March, 1991.

N. COX
Acting Clerk of the House

Passed in the Senate this 4th day of June, 1991.

R. CUMBERBATCH
Acting Clerk of the Senate

Senate Amendments agreed to by the House of Representatives this 14th day of June, 1991.

N. COX
Acting Clerk of the House