



TURKS AND CAICOS ISLANDS

CHAPTER 10.02 NATIONAL TRUST ORDINANCE

Revised Edition
showing the law as at 31 August 2009

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This edition contains a consolidation of the following laws—

NATIONAL TRUST ORDINANCE

Ordinance 11 of 1992 .. in force 7 August 1992

Amended by Ordinances: 2 of 1993 .. in force 30 July 1993

12 of 1994 .. in force 8 February 1994

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No Subsidiary Legislation has been made under this Ordinance

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CHAPTER 10.02

NATIONAL TRUST ORDINANCE

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CHAPTER 10.02

NATIONAL TRUST ORDINANCE

(Ordinances 11 of 1992, 2 of 1993 and 12 of 1994)

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT AND FUNCTIONS OF A NATIONAL TRUST TO SAFEGUARD THE CULTURAL, HISTORICAL AND NATURAL HERITAGE OF THE TURKS AND CAICOS ISLANDS; FOR THE ESTABLISHMENT AND FUNCTIONS OF A TRUST COUNCIL TO RUN THE AFFAIRS OF THE TRUST; AND FOR MATTERS CONNECTED WITH THOSE PURPOSES.

Commencement

[7 August 1992]

Short title

1. This Ordinance may be cited as the National Trust Ordinance.

Interpretation

2. In this Ordinance—

“annual general meeting” means the annual general meeting of the Trust held in accordance with section 7;

“by-laws” means the by-laws made under section 21;

“chairman” and “vice-chairman” means the chairman and vice-chairman of the Trust Council referred to in section 6;

“committee” means a committee of the Trust Council appointed under section 8(1);

“Heritage Register” means the Heritage Register referred to in section 5(b);

“member” means a member of the Trust Council elected, appointed or co-opted in terms of section 6(2);

“member of the Trust” means a member of the Trust referred to in section 5(l);

“secretary” means the secretary of the Trust Council referred to in section 6;

“Trust” means the National Trust of the Turks and Caicos Islands established by section 3;

“Trust Council” means the Trust Council established by section 6(1).

Establishment of Trust

3. There is hereby established a body corporate called the National Trust of the Turks and Caicos Islands which shall have perpetual succession and a

common seal and may in pursuance of its functions under this Ordinance buy, lease, sell, hold, deal and otherwise acquire and dispose of property of whatever nature, enter into contracts of any nature, and raise loans.

Purpose of Trust

4. The purpose of the Trust shall be to safeguard the cultural, historical and natural heritage of the Turks and Caicos Islands through the preservation of areas, sites, buildings, structures and objects of cultural, historical or natural significance.

Powers of Trust

5. In pursuance of its purpose the Trust shall have power—

- (a) to identify, investigate, classify, protect and preserve any area, site, building, structure or object of cultural, historical or natural significance;
- (b) to create and maintain a register, to be known as the Heritage Register, of areas, sites, buildings, structures or objects of cultural, historical or natural significance;
- (c) to acquire property by gift, bequest, purchase, lease or other means and to maintain such property;
- (d) subject to its prior approval, to maintain such property as the Governor may assign to the Trust for maintenance;
- (e) to provide access to Trust property by the public subject to such conditions and charges as the Trust may fix;
- (f) to produce and distribute any publication arising from or connected with the work of the Trust and to retain the proceeds or royalties from any sale of such publication;
- (g) to provide loans, guarantees or grants to any person engaging in any project or study connected with the purpose of the Trust, or to assist any person in maintaining any area, site, building, structure or object of cultural, historical or natural significance;
- (h) to appoint officers, agents and employees and retain consultants;
- (i) to engage in programmes to preserve and propagate wild life;
- (j) to raise funds for the furtherance of its purpose;
- (k) to invest funds not immediately required for its purpose in any manner it considers fit;
- (l) to recruit persons willing to further its purpose as members of the Trust and to maintain a register of such members;
- (m) to provide information, advice and assistance to the Government and any person for the furtherance of its purpose;
- (n) to promote public interest in its purpose through public information and education; and

- (o) to do such other things as are necessary for the furtherance of its purpose.

Trust Council

6. (1) There shall be established a Trust Council to further the purpose and exercise the powers of the Trust, and to execute such other functions as are conferred upon it by or under this Ordinance.

(2) The Trust Council shall consist of honorary members, as follows—

(a) the following members, being members of the Trust, elected at the appropriate annual general meeting pursuant to subsection (3)—

- (i) a chairman;
- (ii) a vice-chairman;
- (iii) a secretary;
- (iv) a treasurer; and
- (v) up to six other persons drawn from each of the inhabited Islands; and

(b) three members appointed by the Governor-in-Cabinet from persons who are members of the Trust.

(Amended by Ord. 2 of 1993)

(3) The following rules apply to the various members as follows—

(a) the Chairman, Vice-Chairman, Secretary and Treasurer shall—

- (i) hold office until the third annual General Meeting after the one at which they were elected;
- (ii) be eligible for re-election to three terms consecutively in any of those said offices;
- (iii) after serving those consecutive terms, be again eligible to serve three more consecutive terms after a break of at least one term;

(b) members elected under section 6(2)(a)(v) shall hold office until the next annual General Meeting and be eligible for re-election to ten consecutive terms, before a break of at least one term;

(c) members appointed under section 6(2)(b) shall hold office for such term, not exceeding ten years, as the Governor-in-Cabinet may specify in the instrument of appointment;

(d) any term served by a member under paragraph (b) or (c) shall not be regarded as consecutive to any term served by the member under paragraph (a), and *vice versa*.

(Inserted by Ord. 2 of 1993)

(4) The Chairman shall fix the date, time and place of meetings of the Trust Council—

- (a) as often as he considers it necessary, but in any case at least once in a period of six calendar months; and
- (b) at the written request of a majority of members of the Trust Council made at least fourteen days before the date proposed by such members for a meeting.
(Amended by Ord. 2 of 1993)

(5) The quorum for a meeting of the Trust Council shall be a majority of the members.

(6) The Vice-Chairman, failing whom a member elected by the Trust Council, shall preside at meetings of the Trust Council in the absence of the Chairman.

(7) Any question arising at a meeting of the Trust Council shall be decided by a majority of the members present and voting and, in the event of an equality of votes, the Chairman or member presiding at the meeting shall have a casting vote.

(8) No member of the Trust Council shall be personally liable for any act or default of the Trust Council done or omitted to be done in good faith in the course of the discharge of the functions of the Trust Council.

(9) No act or other proceedings of the Trust Council shall be invalid or affected by reason of the fact that there is some defect in the appointment of a person purporting to be a member of the Trust Council, in the manner of election of such person or by any vacancy among its members.

(10) Subject to any by-laws, the Trust Council may regulate the proceedings at its meetings as it thinks fit, and shall keep minutes of those proceedings.

Annual general meetings of Trust

7. The annual general meeting of the members of the Trust shall be held once a year at such time and at such place as the Trust Council shall fix on not less than fourteen days written notice to each member.

District and other committees of Trust Council

8. (1) For the furtherance of its purpose the Trust Council may appoint—

- (a) an Island committee for each inhabited Island; and
- (b) one or more committees for any special purpose,

upon which it may confer such of the functions of the Trust Council, including the exercise of any power of the Trust, as it thinks fit.

(2) In appointing a committee the Trust Council shall appoint not fewer than three and not more than five members of the Trust:

Provided that the chairman of an Island committee shall be an elected representative of that Island on the Trust Council referred to in section 6(2)(a)(v).

(3) Unless a member of the committee is so chosen by the Trust Council, the committee shall elect one of their number to be chairman of the committee, and subsections (4) to (10) of section 6 shall apply, *mutatis mutandis*, to meetings of the committee.

Authentication of documents

9. (1) A deed, document or other instrument requiring the seal of the Trust shall be—

- (a) sealed with the common seal of the Trust; and
- (b) signed by the Chairman, Vice-Chairman, Secretary or other person authorized in that behalf by the Trust Council.

(2) A signature appearing on any deed, document or other instrument purporting to be sealed with the common seal of the Trust shall be sufficient evidence that the common seal was duly and properly affixed, and that the seal is the lawful seal of the Trust.

(3) Any document not required to be under seal shall be signed by the Chairman, Vice-Chairman, Secretary or such other person as the Trust Council may appoint either generally or for a specific document.

(4) Any resolution or decision of the Trust Council or minute thereof purporting to be signed by the Chairman, Vice-Chairman, Secretary or other member shall in all courts and for all purposes be *prima facie* evidence of the official status of the party signing the same and of any facts stated therein.

Financial provisions

10. (1) The funds of the Trust shall consist of—

- (a) moneys appropriated by the House of Assembly for the purpose of the Trust and accepted by the Trust Council;
- (b) donations, grants and bequests to the Trust which have been accepted by the Trust; and
- (c) any other moneys that may vest in or accrue to the Trust, whether in terms of this Ordinance or otherwise.

(Amended by Ord. 2 of 1993)

(2) The funds of the Trust shall be wholly applied towards furthering the purpose of the Trust and discharging its functions.

(3) The Trust shall keep proper accounts of its receipts, payments, assets and liabilities, in a form which shall conform with the best commercial standards.

(4) The accounts of the Trust shall be audited annually by an accountant qualified to practise in the Turks and Caicos Islands, and the members, employees and officers of the Trust or Trust Council shall grant to the person conducting such audit access to all the books, documents, cash and securities of the Trust and, on request, all such information as shall be within their knowledge in relation to the operation of the Trust.

(5) A copy of the audit report of the accountant referred to in subsection (4) shall be laid before the House of Assembly simultaneously with the annual report referred to in section 18.

Agreements with Trust restricting use of land

11. Where a person is willing to agree with the Trust that any land shall, so far as his interest therein enables him to bind it, be made subject, either permanently or for a specified period, to an easement or to conditions restricting the planning, development or use thereof in any manner, the Trust may enter into an agreement with him or accept a covenant from him to that effect and shall, notwithstanding any provisions of any other law, including the common law, applicable to the Islands, have power to enforce such agreement or covenant against persons deriving title under him in the like manner and to the like extent as if the Trust were possessed of, entitled to or interested in adjacent land for the benefit of which the agreement or covenant had been entered.

Exemption from stamp duty

12. Any transaction involving the Trust shall be exempt from the payment of any stamp duty under the Stamp Duty Ordinance for which, but for this section, stamp duty would be payable.

Governor may grant property to Trust

13. The Governor may grant to the Trust such land or interest in land over which he has the power of disposition as he may deem fit, and may grant to the Trust control over submarine areas, including control over access to such areas, activities within such area, and such other form of control as he may deem fit:

Provided that no land may be granted to the Trust under this section except upon the condition that it be declared inalienable under section 15.

(Amended by Ord. 2 of 1993)

Removal of persons

14. Officers, employees and agents of the Trust may, within any land being Trust property, require any person to leave the property who contravenes or is suspected of contravening or having contravened any provision of this Ordinance or by-laws made hereunder.

Inalienable property

15. (1) Any property acquired by the Trust which is eligible for inclusion in the Heritage Register under the by-laws of the Trust, or is acquired pursuant to section 13, may be declared inalienable by the Trust Council.

(2) Property declared inalienable in terms of subsection (1) may be alienated only –

- (a) if the alienation will further the purpose of the Trust; and
- (b) after a two-thirds vote of the full membership of the Trust at an annual general meeting.

Application of Trusts Ordinance

16. Subject to this Ordinance, the provisions of the Trusts Ordinance relating to a Turks and Caicos Trust as there defined, other than section 47 and, to the extent that it permits the Supreme Court to appoint or remove a trustee, section 52, shall apply to the Trust.

Advice of Trust Council concerning certain matters under National Parks and Physical Planning Ordinances

17. The Governor may seek and take the advice of the Trust Council, and the Trust Council on its own initiative may tender its advice to the Governor, on any matter concerning—

- (a) the declaration of a national park, nature reserve, sanctuary or area of historical interest under section 3 of the National Parks Ordinance;
- (b) the making of regulations under section 8 of the National Parks Ordinance;
- (c) the granting of applications for development permission referred to the Governor under section 42(2)(b) of the Physical Planning Ordinance.

Annual report of Trust

18. (1) The Trust Council shall, within three months of the end of each financial year as defined in the by-laws, prepare and present to the annual general meeting a report of its proceedings during that year together with a complete statement of its financial position and its accounts.

(2) The Trust Council shall forward copies of the report referred to in subsection (1) to the Governor and the Minister for the time being responsible for administering this Ordinance, and the Minister shall, after receiving the annual report, lay it before Parliament.

Failure of Trust

19. (1) If the Trust Council finds that, for financial or other reasons, continued operation of the Trust is no longer feasible, it may voluntarily wind up the affairs of the Trust.

(2) If events occur concerning the Trust which, if it were a limited company formed and registered under the Companies Ordinance would enable the Supreme Court to wind it up under section 100 of that Ordinance, the Permanent Secretary, Finance may apply to the Supreme Court to wind up the Trust.

(3) If the affairs of the Trust are wound up under the provisions of subsection (1) or (2)—

- (a) that property of the Trust which has been declared inalienable in terms of section 15 shall vest in the Permanent Secretary, Finance

to be held for the public enjoyment and benefit, and shall be subject to disposition by the Governor:

Provided that it may only be so disposed to a person or association of persons having a purpose identical or similar to that of the Trust, and shall be held for the public enjoyment and benefit;

- (b) that property of the Trust which has not been declared inalienable shall be disposed of by the Supreme Court for the benefit of the creditors of the Trust, with any surplus vesting in the Permanent Secretary, Finance for the purpose of maintaining the inalienable properties.

Offences and penalties

20. A person who—

- (a) takes or attempts to take any wild life, whether flora or fauna, on Trust property;
- (b) starts any fire on Trust property, except in any area where fires are permitted under the by-laws;
- (c) removes any artifact from any Trust property;
- (d) defaces any Trust property; or
- (e) refuses to leave Trust property when required to do so under section 14,

commits an offence and is liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of one year or to both.

By-laws

21. The Trust Council, with the approval of the Governor, may make by-laws—

- (a) for the regulation of proceedings of the Trust Council and its committees, the calling of meetings of the Trust Council and the Trust and the procedure for electing members to the Trust Council;
- (b) for the appointment of officers, agents and employees of the Trust and the allocation of functions to such persons;
- (c) for the keeping and presentation of accounts and the financial year of the Trust;
- (d) prescribing the rights and privileges of members of the Trust;
- (e) regulating the use of the facilities of the Trust by members of the Trust and the public;
- (f) for the categories of membership of the Trust and the fees payable in respect of such membership;
- (g) for the creation and maintenance of the Heritage Register;

- (h) for the adoption of a logo;
 - (i) generally for the purpose of carrying this Ordinance into effect.
-