
Second Session Twelfth Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 5 of 2022

[L.S.]

AN ACT to provide for the establishment of the National Academy for the Performing Arts and for the management and control thereof and for related matters

[Assented to 21st March, 2022]

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

1. This Act may be cited as the National Academy for Short title the Performing Arts Act, 2022.

- Commencement **2.** This Act comes into operation on such date as is fixed by the President by Proclamation.
- Interpretation **3.** In this Act, unless the context otherwise requires—
- “Board” means the Board of the National Academy for the Performing Arts established by section 6(1);
- “Chairman” means the Chairman of the Board appointed under section 6(4);
- “Corporate Secretary” means the Corporate Secretary of NAPA appointed under section 11(1);
- “Deputy Chairman” means the Deputy Chairman of the Board appointed under section 6(4);
- “financial year” means the period of twelve months commencing on 1st October in each year;
- “Member” means a Member of the Board;
- “Minister” means the Minister to whom responsibility for culture and the arts is assigned and the term “Ministry” shall be construed accordingly;
- “NAPA” means the National Academy for the Performing Arts established under section 4;

PART II

THE NATIONAL ACADEMY FOR THE PERFORMING ARTS

- Establishment of the National Academy for the Performing Arts **4.** There is hereby established a body corporate to be known as “the National Academy for the Performing Arts” (hereinafter referred to as “NAPA”).
- Functions of NAPA **5.** The functions of NAPA are—
- (a) to promote the development of culture and the arts in Trinidad and Tobago;

- (b) to provide state-of-the-art facilities for culture and the arts in Trinidad and Tobago, including theatres, concert halls and other places of assembly for the presentation of music, opera, drama, dance, visual or auditory arts, and conference facilities;
- (c) to provide any service and carry on any business or activity relating to the provision of facilities and other amenities for the purposes of promoting culture and the arts and facilitating persons engaged in the performing arts;
- (d) to showcase cultural and artistic events and performances and expand the range of available artistic opportunities;
- (e) to provide technical training in culture and the arts for upcoming practitioners in the field which builds the cadre and proficiency of national professional artistes and performers through timely and consistent access to NAPA; and
- (f) to engage in any other business or activity that is incidental to or which is capable of being conveniently carried on in the performance of its functions under paragraphs (a) to (e).

6. (1) NAPA shall be managed by a Board appointed by the Minister for the purpose of exercising such powers and duties as are conferred upon it by this Act and any other written law.

Establishment and
constitution of the
Board

(2) The Board shall comprise not less than five and no more than eleven Members.

(3) The Members shall be selected from persons who have qualifications or experience in the performing arts, culture, law, engineering, management, finance,

accounting, information technology, human resources, marketing or any other related or relevant field of expertise.

(4) The Minister shall appoint the Chairman and the Deputy Chairman of the Board from among the Members.

Responsibilities and powers of the Board

7. (1) The Board shall be responsible for—

- (a) operating and maintaining NAPA and regulating, co-ordinating and conducting all its activities in accordance with the provisions of this Act and any other written law;
- (b) entering into strategic partnerships or alliances to facilitate beneficial activities consistent with the functions of NAPA;
- (c) identifying, evaluating and promoting all culture and the arts related activities in respect of NAPA with a view to optimising the revenue-earning potential of NAPA and its contribution to the culture and the arts sector;
- (d) implementing the policies of the Government in relation to the management of performing spaces and culture and the arts education as may be directed by the Minister from time to time; and
- (e) developing and ensuring the implementation of management policies in relation to any and all matters which the Board considers necessary or conducive for the due execution of its functions, powers and duties under this Act.

(2) The Board has the power to do all things necessary, incidental, conducive or convenient to be done for or in connection with the functions of NAPA and the carrying out of its responsibilities under this Act.

8. (1) A Member shall be appointed for a term not exceeding three years and is eligible for reappointment.

Tenure and remuneration of Members

(2) The appointment of a Member shall be on such terms and conditions as may be determined by the Minister.

9. (1) A Member may, at any time, resign his office by instrument in writing, addressed to the Minister.

Resignation, removal and absence of Members

(2) The Minister may terminate the appointment of a Member where that Member—

- (a) becomes a person of unsound mind;
- (b) becomes bankrupt;
- (c) is unable, unfit or unwilling to perform his functions;
- (d) is absent from three consecutive meetings of the Board without leave of the Board or without reasonable cause;
- (e) is guilty of misbehaviour in office or misconduct in relation to his duties as a Member;
- (f) is sentenced to imprisonment or is convicted of an offence involving dishonesty or any other offence which brings NAPA into disrepute, whether in Trinidad and Tobago or elsewhere; or
- (g) for any other sufficient cause.

(3) Where a Member dies, resigns, is removed from, or otherwise vacates his office prior to the expiry of the term for which he has been appointed, the Minister may appoint a person to hold or act in the vacant office of the Member.

(4) An appointment of a Member under subsection (3) may be for the unexpired period of the term of office of the person in whose place he is appointed or for a new term of office.

(5) The Minister may appoint a person who is not a Member to act as a Member in the same capacity during any period when a Member is—

- (a) outside Trinidad and Tobago;
- (b) absent due to illness certified by a medical practitioner; or
- (c) for any other reason, unable to perform the duties of his office.

(6) An acting appointment of a Member under subsection (5) shall not continue for more than six months.

(7) The Minister may terminate an appointment under subsections (3) or (5) at any time.

(8) Where a person is acting as a Member and the office becomes vacant while the person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of six months from the date on which the vacancy occurred expires, whichever occurs first.

Names of Members
to be published in
the *Gazette*

10. Where a Member of the Board is appointed to, or resigns or is terminated from the Board, the Minister shall cause notice of the appointment, resignation or termination of the Member to be published in the *Gazette*.

Corporate Secretary

11. (1) The Board shall appoint a suitably qualified person to be the Corporate Secretary of NAPA on such terms and conditions as it thinks fit.

(2) The Corporate Secretary shall be responsible for such matters as the Board may determine.

Custody and use of
seal

12. (1) NAPA shall have an official Seal which shall be kept in the custody of the Corporate Secretary.

(2) The Seal shall be used with the permission of the Board and every instrument to which it is affixed shall be signed by the Chairman and the Corporate Secretary or in the absence of the Chairman, by the Deputy Chairman and the Corporate Secretary.

(3) All documents other than those required by law to be under Seal shall be signed by the Chairman or the Deputy Chairman or a Member authorised by resolution of the Board to do so.

13. Service upon NAPA of any notice, order or other document, shall be executed by delivering same or by sending it via electronic means or by registered post addressed to the Corporate Secretary. Service of documents

14. (1) The Board shall meet at least once every 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. Meetings of the Board

(2) The Chairman may at any time call a special meeting, or shall call a special meeting within seven days of receipt of a request in writing for that purpose addressed to him by not less than three Members.

(3) At every meeting of the Board, the Chairman shall preside except that in the absence of—

(a) the Chairman, the Deputy Chairman shall preside; or

(b) the Chairman and the Deputy Chairman, the Members present shall elect from among themselves a person to preside.

(4) The quorum of the Board shall be not less than fifty percent of its Members.

(5) Subject to section 17(3), each Member is entitled to vote on any matter before the Board.

(6) The Board shall take its decisions by a majority vote of the Members present and in the event of a tie, the person presiding shall have a casting vote.

(7) The Board may, by way of resolution, regulate its own proceedings.

15. (1) Minutes in proper form of each meeting shall be kept by the Corporate Secretary. Minutes

(2) All decisions, resolutions and rules made by the Board with respect to the operations of NAPA shall be recorded in the Minutes.

(3) Minutes prepared in accordance with subsection (1) shall, at a subsequent meeting of the Board—

(a) be confirmed by any Member who was present at the meeting that the Minutes pertain to; and

(b) be certified by the Chairman or Deputy Chairman or the Chairman presiding.

(4) Copies of the Minutes referred to in subsection (3) shall be forwarded to the Minister within one week of being confirmed.

Appointment of committees

16. (1) The Board may appoint committees comprising its Members or other persons, to assist in the performance of the functions of NAPA.

(2) Where persons, not being Members of the Board, are members of a committee appointed under subsection (1), the Board may, with the approval of the Minister of Finance, by resolution, declare the remuneration and allowances of such persons and such sums shall properly be so payable out of the funds of NAPA.

Disclosure of interests by Members

17. (1) Every Member shall, within three months of—

(a) his appointment; and

(b) each anniversary of his appointment,

submit to the Minister, a statement declaring whether he has any actual or contingent pecuniary interest in any person or entity carrying on any business with NAPA.

(2) Any Member who has an actual or contingent pecuniary interest shall, as soon as possible after the relevant facts come to his knowledge, disclose in writing to the Board and to the Minister the nature and extent of that interest.

(3) A disclosure under subsection (2) shall be recorded in the Minutes of a meeting of the Board and the Member shall—

- (a) not take part after disclosure in any deliberation or decision of the Board with respect to that matter; and
- (b) be disregarded for the purpose of constituting a quorum of the Board.

(4) Any person to whom this section applies, who fails to comply with the provisions of this section, commits an offence, unless he can prove to the satisfaction of the Court that he did not know—

- (a) the matter in which he had an interest was the subject of consideration at the meeting; or
- (b) he had an interest in the matter under consideration at the meeting.

(5) A person who commits an offence under subsection (4) is liable on summary conviction to a fine of one hundred and fifty thousand dollars and imprisonment for a term of two years.

(6) A person who knowingly makes a false declaration under this section commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and imprisonment for a term of two years.

18. (1) Neither a Member nor a member of staff of Personal liability NAPA is liable to any action, claim or demand or any liability in damages or any other remedy whatsoever including costs, for anything done or omitted in the discharge or purported discharge of the functions of the Board and NAPA, unless it is shown that the act or omission was as a result of gross negligence or in bad faith.

(2) Any sums of money, damages or costs recovered against NAPA for anything done, omitted or permitted in good faith in the course of the operations of NAPA shall be paid out from the funds of NAPA.

Directions as to
policy

19. In the performance and exercise of its functions, powers and duties under this or any other written law, the Board shall act in accordance with any special or general directions of the Minister.

PART III

STAFF AND ADVISORS OF NAPA

Appointment of a
General Manager

20. The Board shall appoint a General Manager of NAPA on such terms and conditions as are approved by the Minister.

Employment of staff

21. NAPA may employ such persons as it considers necessary for the due and efficient performance of its functions and exercise of its powers on such terms and conditions as are agreed upon between NAPA and those persons subject to the approval of the Minister.

Employment for
specific tasks

22. The Board may enter into contracts for services with persons for the performance of such tasks that the Board considers necessary for the due performance of its functions and exercise of its powers under this Act, on such terms and conditions as are agreed between NAPA and the person, subject to such maximum limit of remuneration as the Minister determines.

Secondment to
NAPA

23. (1) Subject to subsection (2) and to the approval of NAPA, the appropriate Service Commission and the consent of the officer, any officer in the Public Service or a Statutory Authority may be seconded to the service of NAPA, on terms and conditions agreed between the officer and NAPA.

(2) Where a secondment referred to in subsection (1) is effected, arrangements shall be made to preserve the rights of the officer so transferred to any pension, gratuity or other allowance for which he would have been eligible had he not been seconded to the service of NAPA.

(3) A period of secondment shall not, in any case, exceed three years.

24. Subject to the approval of NAPA, the appropriate ^{Transfer} Service Commission and with the consent of the officer, an officer in the Public Service or a Statutory Authority may be transferred to the service of NAPA on terms and conditions no less favourable than those enjoyed by the officer in the Public Service or Statutory Authority, as the case may be.

25. (1) This section applies to an officer who, on the ^{Options available to public officers} date of the coming into force of this Act—

- (a) holds a permanent appointment to; or
- (b) holds a temporary appointment to, and has served at least two continuous years in,

a public office in the Ministry in relation to National Academy for the Performing Arts.

(2) A person to whom this section applies may, within three months of the coming into force of this Act, or within such extended period as the Minister may, by Order, subject to negative resolution of Parliament allow exercise one of the following options:

- (a) voluntarily retire from the Public Service on terms and conditions agreed between him or his appropriate recognised association and the Chief Personnel Officer;
- (b) transfer to NAPA with the approval of the appropriate Service Commission on terms and conditions which, taken as a whole, are no less favourable than those enjoyed by him in the Public Service; or
- (c) remain in the Public Service provided that an office commensurate with the office held by him in the Public Service prior to the date of the coming into force of this Act, is available.

Pension fund plan

26. (1) NAPA shall establish a pension fund plan or where the establishment of a plan is not feasible, join an existing plan.

(2) Subject to the terms and conditions of the pension fund plan, all employees of NAPA other than those seconded to NAPA under section 23 shall be eligible to become members of the pension fund plan.

(3) Superannuation benefits which had accrued to a person who transferred in accordance with section 24 shall be preserved as at the date of his employment by NAPA and such benefits shall continue to accrue under the relevant pension law up to the date of establishing or joining a pension fund plan on the basis of pay, pensionable emoluments or salary, as the case may be, applicable at the time of his transfer, to the office held by him immediately prior to his employment at NAPA.

(4) Where a person who is transferred in accordance with section 24 dies, retires or his post in NAPA is abolished or he is retrenched by NAPA prior to establishing or joining the pension fund plan and, if at the date that his service is terminated by any of the above-mentioned methods he was in receipt of a salary higher than the pay, pensionable emoluments or salary referred to in subsection (3), the superannuation benefits payable to his estate or to him, as the case may be, shall be based on the higher salary.

(5) The difference between the superannuation benefits payable on the basis of the higher salary referred to in subsection (4) and the superannuation benefits payable under the relevant pension law, on the basis of the pay, pensionable emoluments or salary referred to in subsection (3), shall be paid by NAPA.

(6) Where a person, who is transferred in accordance with section 24 dies, retires or his post in NAPA is abolished or he is retrenched from NAPA while

being a member of the pension fund established by NAPA, he shall be paid superannuation benefits by the pension fund at the amount which, when combined with the superannuation benefits payable under the relevant pension law, is equivalent to the benefits based on his pensionable service in the Public Service or a Statutory Authority combined with his service in NAPA and calculated at the final salary applicable to him on the date that his service was terminated by any of the methods identified herein.

(7) For the purposes of subsection (6), “final salary” shall have the meaning assigned to it in the pension fund plan.

(8) Where a person who is transferred in accordance with section 24 dies, retires, his post in NAPA is abolished or he is retrenched from NAPA while being a member of a pension fund plan that NAPA joined, superannuation benefits payable under that plan shall be no less favourable than those payable in accordance with subsection (6).

27. (1) The General Manager and such other persons employed or engaged by NAPA, as the Board may with the approval of the Minister determine, shall within three months after—

Disclosure of interests by General Manager, etc.

- (a) his appointment or engagement; and
- (b) each anniversary of his appointment or engagement,

submit to the Board a declaration in the approved form stating whether or not he has an actual or contingent pecuniary interest in any person or entity which is engaged by NAPA.

(2) A person referred to in subsection (1) who has an actual or contingent pecuniary interest referred to in that subsection shall not, in the course of the performance of his duties, knowingly take part in any deliberation or decision which is likely to affect that interest.

- (3) A person who—
- (a) contravenes subsection (1) or (2); or
 - (b) knowingly makes a false declaration under subsection (1),

commits an offence and is liable on summary conviction to a fine of one hundred and fifty thousand dollars and imprisonment for a term of two years.

PART IV

FINANCIAL PROVISIONS

Definitions

28. For the purposes of this Part—

“IFRS” means the International Financial Reporting Standards as adopted from time to time by the International Accounting Standards Board;

“securities” has the meaning assigned to it under the Securities Act.

Chap 83:02

Funds of NAPA

29. (1) The funds of NAPA shall consist of—

- (a) appropriations by Parliament from the Consolidated Fund;
- (b) fees and other charges collected by NAPA;
- (c) sums borrowed by NAPA for the purpose of meeting any of its obligations or for discharging any of its functions;
- (d) grants, covenants, donations and other receipts from persons, including national and international bodies;
- (e) sums received by, or owed to NAPA, in respect of the performance of its functions or the exercise of its powers; and
- (f) such other sums which may, in any manner, become lawfully payable to, or vested in, NAPA.

(2) The funds of NAPA shall be kept in such financial institutions as the Minister of Finance may approve.

30. (1) The funds of NAPA, in any financial year, shall only be applied in defraying the following expenditure: Application of the funds of NAPA

- (a) the operating expenses of NAPA;
- (b) such capital expenditure as may be necessary subject to the approval of the Minister;
- (c) the acquisition of property by NAPA in the course of performing its functions or exercising its powers;
- (d) the remuneration of the Chairman and other Members;
- (e) the salaries, fees, allowances, advances, loans, gratuities, pensions and other payments to the General Manager, Corporate Secretary or other members of staff of NAPA;
- (f) research and development projects, training and certification and other related matters; and
- (g) any other expenditure identified by NAPA in relation to NAPA's discharge of its duties, functions and contractual obligations, subject to the approval of the Minister.

31. (1) NAPA shall prepare in such form as the Minister of Finance directs, estimates of income and expenditure for each financial year, and if the Minister of Finance so directs, for any other period specified by him and NAPA shall submit such estimates so prepared to the Treasury not later than the stipulated deadline date, having first obtained approval of the estimates of expenditure from the Minister. Estimates of expenditure

(2) NAPA shall, at such time as the Minister directs, furnish him with such further information in relation to the estimates as he may require.

Financial year

32. The financial year of NAPA shall be the period of twelve months from the 1st day of October in any year to the 30th day of September the following year, but the period from the date of commencement of this Act to the 30th day of September shall be deemed to be the first financial year.

Accounts

33. (1) NAPA shall keep proper accounts and other records and shall record the matters in respect of which such sums were received and expended.

(2) Within three months after the end of each financial year, NAPA shall cause to be prepared, in respect of that year—

- (a) a report on the activities of NAPA; and
- (b) financial statements prepared in accordance with IFRS,

and a copy of such report and financial statements shall be forwarded to the Minister and shall be laid in Parliament as soon as possible thereafter.

(3) Where the standards included in IFRS are inappropriate or inadequate for any type of accounting method, the Comptroller of Accounts may provide such instructions as may be necessary.

Audit of accounts
Chap. 1:01

34. (1) The accounts of NAPA are public accounts of Trinidad and Tobago for the purposes of section 116 of the Constitution and shall be audited annually by the Auditor General or by an auditor authorised by the Auditor General, in writing, for that purpose.

(2) On completion of an audit of NAPA, the Auditor General or an auditor authorised by him to conduct the audit, as the case may be, shall immediately draw to the attention of the Minister and the Board any irregularity disclosed by the audit, which in the opinion of the Auditor General or the auditor is of sufficient importance to justify so doing.

(3) For the purposes of an audit conducted pursuant to this Act, the Exchequer and Audit Act shall Chap. 69:01 apply as if an audit referred to in this Part is one to which that Act applies.

(4) As soon as the accounts of NAPA have been audited, the Auditor General shall submit his report in accordance with section 116 of the Constitution and shall simultaneously forward a copy of the said report to the Minister of Finance.

(5) Nothing in this section precludes the Auditor General or an auditor engaged by the Board or the Minister from performing a management or comprehensive audit of the activities of NAPA.

35. The Board may invest moneys not immediately Power to invest required to be expended in meeting any obligation or discharging any function of NAPA in securities approved by the Minister of Finance.

36. (1) NAPA may, with the approval of the Minister Power to borrow of Finance, borrow sums required for meeting any of its obligations under this Act.

(2) The Minister of 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 borrowing of NAPA under this section.

(3) The Board may, with the approval of the Minister of Finance, raise money by the issue of securities, required by it for meeting any of its obligations and discharging of any of its functions.

PART V

MISCELLANEOUS

37. (1) Subject to subsections (2), (3) and (4), the Strategic plan and operational plans Board shall prepare strategic plans and operational plans for NAPA.

(2) The first strategic plan shall be for a period of not less than three years and no more than five years, beginning on a date no later than six months after the appointment of the first Board, and each subsequent strategic plan shall be for a period not exceeding three years, beginning on the day following the expiry of the previous strategic plan.

(3) The Board shall submit a strategic plan to the Minister for approval at least three months before the beginning of the relevant financial year.

(4) The Board shall prepare an operational plan for each financial year of NAPA and submit it to the Minister at least three months before the beginning of the relevant financial year.

Rules

38. The Board may, by resolution and with the approval of the Minister, make rules for the management, control and use of NAPA or any other matter or thing which the Board may consider necessary or conducive to the performance of its functions.

Vesting of property

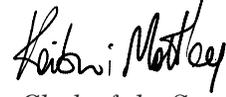
39. All rights, title or custody to property of the Government, real or personal, existing in relation to the National Academy for the Performing Arts immediately prior to the coming into force of this Act shall, at the commencement of this Act, be transferred to, and vested in NAPA.

Exemption from taxes, etc.

40. (1) Subject to subsection (2), NAPA, its assets, property, income and its operations and transactions authorised under any Act, shall be exempt from all taxation of every kind and description, including customs duties, corporation tax, motor vehicle tax, property tax, stamp duty, business levy and green fund levy.

(2) NAPA shall not be exempt from valued added tax.

Passed in the Senate this 18th day of January, 2022.



Acting Clerk of the Senate

Passed in the House of Representatives this 4th day
of March, 2022.



Acting Clerk of the House