

CHAPTER 20:03

NATIONAL TRUST ACT

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CHAPTER 20:03

NATIONAL TRUST

7 of 1972. **An Act to make provision for the preservation of monuments, sites, places and objects of historic interest or national importance.**

[23RD SEPTEMBER, 1972]

Short title. **1.** This Act may be cited as the National Trust Act.

Interpretation. **2.** In this Act—

“monument” includes any building, structure, object or other work of man or of nature whether above or below the surface of the land or the floor of the sea within the territorial waters of Guyana and any site, cave or excavation;

“national monument” means any monument declared to be a national monument under section 15 and includes any land comprising or adjacent to such a monument which, in the opinion of the National Trust, is reasonably required for the purpose of maintaining the monument or the amenities thereof, or for providing or facilitating access thereto or for the exercise of proper control or management with respect thereto.

Establishment and constitution of the National Trust. **3.** (1) There is hereby established a body to be known as the National Trust which shall be a body corporate with power to do all things necessary for the purposes of this Act except that the National Trust shall not transfer, mortgage, lease, charge or dispose of any land without the approval of the Minister.

(2) The National Trust consist of the following members—

- (a) the Commissioner of Lands;
- (b) the Town and Country Planning Officer;
- (c) the Archivist; and
- (d) six other persons appointed by the Minister (herein-after referred to as “appointed members”).

(3) The Minister shall appoint a Chairman and a Deputy Chairman of the National Trust from among the members of the National Trust.

(4) In the absence or inability to act of the Chairman and the Deputy Chairman, the Minister may appoint one of the remaining members of the National Trust to act as Chairman.

4. (1) An appointed member holds office for a period not exceeding three years, as the Minister may direct in the instrument appointing such member, but he shall be eligible for reappointment.

Tenure of office of members.

(2) The appointment, removal, resignation or death of the Chairman, the Deputy Chairman or any appointed member shall be notified in the *Gazette*.

5. (1) The function of the National Trust is to promote the permanent preservation for the benefit of the nation of property of beauty or historic interest.

Functions of the National Trust.

(2) Without prejudice to the generality of subsection (1), the function of the National Trust includes—

- (a) the preservation of buildings of national interest or of architectural, historic or artistic interest and places of natural interest or national importance or beauty and the protection and augmentation of the amenities of those buildings and places and their surroundings;
- (b) the preservation of furniture and pictures and chattels of any description having national or historic or artistic interest;

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(c) the access to and enjoyment by the public of such buildings, places and chattels.

Remuneration
of members.

6. (1) Travelling expenses actually incurred by members of the National Trust and a subsistence allowance when attending meetings of the National Trust or when travelling on official tours of inspection approved by the National Trust may be reimbursed from the funds of the National Trust.

(2) The rates of travelling allowance and subsistence allowance shall be such rates as the Minister responsible for finance may approve.

(3) The National Trust may, with the approval of the Minister, enter into arrangements with any member of the National Trust for the payment of an allowance to the member for giving technical advice on or for supervising repairs to national monuments.

Appointment
of officers and
employees.

7. The National Trust may appoint and employ at such remuneration and on such terms and conditions as they think fit, a secretary and such other officers, employees and agents as they deem necessary for the proper carrying out of the provisions of this Act.

Meetings of
the National
Trust.

8. (1) The National Trust shall meet at such times as may be necessary or expedient for the transaction of business and the meetings shall be held at such place and time and on such days as the National Trust may determine.

(2) The Chairman may at any time summon a special meeting of the National Trust and shall summon a special meeting within seven days of a requisition for that purpose addressed to him by any three members of the National Trust.

(3) Three members of the National Trust shall form a quorum.

(4) Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman or the Deputy Chairman or other member presiding at the meeting, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(5) The National Trust may co-opt any one or more persons to attend any particular meeting of the National Trust at which they are dealing with a particular matter, for the purpose of assisting or advising the National Trust, but the co-opted person does not have the right to vote.

(6) References in this section and in sections 9 and 20 to the Chairman of the National Trust include references to an acting Chairman appointed pursuant to section 3 (4).

(7) Subject to the provisions of this section, the National Trust have power to regulate their own proceedings.

9. (1) The seal of the National Trust shall be authenticated by the signature of the Chairman or the Deputy Chairman and the Secretary of the National Trust, and the seal shall be officially and judicially noticed.

Use of seal of the National Trust and execution of documents.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the National Trust may be signified under the hand of the Chairman, or Deputy Chairman. or the Secretary of the National Trust.

10. (1) The National Trust may appoint a committee to examine and report to them on any matter whatsoever arising out of or in connection with any of their functions.

Power to appoint committees.

(2) The committee shall consist of at least two members of the National Trust together with such other persons, whether members of the National Trust or not, whose assistance or advice the National Trust may desire.

(3) Where persons, not being members of the National Trust are members of a committee appointed under this section, or where a person is co-opted under section 8(5) the provisions of section 6 apply for the purposes of the payment of the expenses and allowances of such persons as they apply in relation to members of the National Trust.

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Power to
delegate
functions.

11. Subject to the provisions of this Act, the National Trust may delegate to any member or committee of the National Trust the power and authority to carry out on their behalf such functions as the National Trust may determine.

Funds of the
National Trust.

12. (1) The funds and resources of the National Trust consist of—

- (a) such sums as may be provided by Parliament;
- (b) all other sums or property which may in any manner become payable to or vested in the National Trust in respect of any matter incidental to or in connection with their functions.

(2) The expenses of the National Trust (including any remuneration of the members and the officers, employees and agents thereof) shall be paid out of the funds and resources of the National Trust.

Protection of
members of
the National
Trust.

13. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the National Trust in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where a member of the National Trust is exempt from liability by reason only of the provisions of subsection (1) the National Trust is liable to the extent that they would be if the member were an employee or agent of the National Trust, so, however, that if in any case the National Trust is not liable for any of the above-mentioned acts, then the provisions of subsection (1) does not operate to exempt any such member as therein provided.

Accounts and
audit.

14. The accounts of the National Trust shall be audited annually by the Director of Audit and the members, officers and employees of the National Trust shall grant to the Director of Audit access to all the books, documents, cash and securities of the National Trust and shall give to him on request all such information as shall be within their knowledge in relation to the operation of the National Trust.

15. (1) Where it appears to the National Trust that it is in the public interest that any monument should be preserved on account of the historic, architectural or archaeological interest attaching to it or its national importance the National Trust may, by notice published simultaneously in the *Gazette* and one newspaper circulating in Guyana, declare the monument to be a national monument.

National monuments.

(2) Upon publication of a notice under subsection (1) relating to a monument such monument, without further assurance, becomes the property of, and vests in, the National Trust, and where immovable property has, by virtue of this section, vested in the National Trust the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary.

16. (1) Any person specially authorised in writing in that behalf by the National Trust, after giving not less than fourteen days' notice in writing to the occupier of his intention so to do and on production of his authority if so required by or on behalf of the occupier, may enter for the purposes of investigation at all reasonable times upon any land that the National Trust have reason to believe contains a monument, which in the opinion of the National Trust may qualify for declaration as a national monument and may make excavations on the land for the purpose of examination except that—

Power of the National Trust to enter lands. [6 of 1997]

(a) no person shall, under the powers conferred by this section, enter any dwelling-house or any building, park, garden, pleasure ground or other land used for the amenity or convenience of a dwelling-house unless with the consent of the occupier which consent shall not be unreasonably withheld; and

(b) no excavation shall be made under the said powers unless with the consent of every person whose consent to the making of the excavation would, apart from this section, be required, and

(c) the National Trust is liable for any damage done as a result of such entry and investigation.

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(2) If a person wilfully obstructs or hinders a person duly authorised by the National Trust in the exercise of the powers conferred by this section, he is liable on summary conviction to a fine of six thousand five hundred dollars.

Penalty for interfering with national monuments.
[6 of 1997]

17. Any person who disturbs, removes, undermines, defaces or in any manner damages or interferes with any national monument or anything therein or thereupon otherwise than in accordance with the written permission of the National Trust is liable on summary conviction to a fine of one hundred and thirty thousand dollars, and in those proceedings the court may, in addition, order him to pay such sum as the court thinks just for the purpose of repairing or restoring the monument.

Restriction on the exportation of specimens taken from national monuments.
[6 of 1997]

18. (1) No person shall export any article whatever taken from a national monument without the written permission of the National Trust, and no such permission shall be granted unless there is a specimen thereof in a national museum in Guyana.

(2) Any person who exports any article in contravention of this section is liable on summary conviction to a fine of one hundred and thirty thousand dollars and to confiscation of the article.

Power to constitute National Trust guardians of national monuments and effect thereof.

19. (1) The owner of any monument that appears to the National Trust to qualify for declaration as a national monument under section 15 may, with the consent of the National Trust, constitute it by deed guardians of the monument except that the National Trust shall not consent to become guardians of any monument that is occupied as a dwelling-house by any person other than a person employed as the care-taker thereof or his family.

(2) Every person claiming title to any monument from, through or under an owner who has constituted the National Trust guardians of the monument under this section is bound by the deed executed by the owner for that purpose.

(3) Except as provided by this Act, the owner of a monument of which the National Trust become guardians under this Act has the same right and title to, and interest in, the monument in all respects as if the National Trust had not become guardians thereof.

(4) Where the National Trust become guardians of a monument under this Act, they shall maintain the monument and shall, with a view to the maintenance of the monument, have access by themselves, their inspectors, agents or workmen to the monument for the purpose of inspecting it, and of bringing such materials and doing such acts and things, as may be required for the maintenance of it.

(5) All expenses incurred by the National Trust in maintaining the monument shall be defrayed out of the funds and resources of the National Trust.

(6) In this section—

“maintenance” includes the fencing, repairing, and covering in of a monument and the doing of any other act or thing that may be required for the purpose of repairing the monument or protecting it from decay or injury;

“owner” includes a person who has a limited interest in a monument and who, with the consent of all those persons upon whom the monument devolves after the expiration of that limited interest, constitutes the National Trust guardians of the monument.

20. (1) Where a monument which in the opinion of the Minister may qualify for declaration as a national monument—

Interim
preservation
notice.

(a) the National Trust report to him that the monument is in danger of destruction or removal or damage from neglect or injudicious treatment, and that the preservation of the monument is of national importance; or

(b) the Minister considers it to be a matter of immediate urgency to act under this subsection without receiving such a report,

the Minister may, if he thinks fit, subject to section 28, serve a notice (in this Act referred to as an “interim preservation notice”) on the owner and, if the owner is not the occupier of the monument, on the occupier, stating that the monument shall be under the protection of the Minister under this Act while the notice is in force.

(2) Where the Minister serves an interim preservation notice, he shall cause a copy of the notice to be fixed on some part of the monument.

(3) Where the National Trust have reason to believe that a monument is in danger as mentioned in subsection (1), and that the preservation of the monument is of national importance, they may, subject to section 28, by a written authorisation signed on their behalf by the Chairman or the Deputy Chairman of the National Trust, authorise any person (including a member of the National Trust) to inspect the monument for the purpose of enabling the National Trust to determine whether it is proper for them to report to the Minister, and any person so authorised may at any reasonable time, on production by him if so required of the authorisation, enter any premises for the purpose of carrying out the inspection of the monument, except that if the National Trust consider that the inspection of the monument is a matter of immediate urgency, they shall give not less than twenty-eight days’ notice of the proposed inspection to the occupier of the premises which are to be entered.

(4) An interim preservation notice—

(a) may be revoked by the Minister at any time by notice served on the owner and, if the owner is not the occupier, on the occupier of the monument;

(b) shall, if a preservation order made under section 21 with respect to the same monument comes into force within a period of twenty-one months after the service of the interim preservation notice, cease to have effect when the order comes into force; and

(c) shall, if no such order comes into force within that period, and the notice has not been revoked before the end of that period, cease to have effect at the end of that period.

21. The Minister may, subject to and in accordance with the provisions of the First Schedule, make an order (in this Act referred to as a “preservation order”) placing under the more lasting protection of the National Trust a monument with respect to which an interim preservation notice is in force.

Preservation orders.
First Schedule.

22. (1) While an interim preservation notice or a preservation order is in force with respect to a monument, the monument shall not be demolished or removed, nor shall any additions or alterations be made to it or any work carried out in connection with it, except with the written consent of the Minister granted subject to such conditions as the Minister may think fit to impose.

Effect of interim preservation notice and preservation order.
[6 of 1997]

(2) Any person who contravenes subsection (1) is liable on summary conviction to a fine of thirty-two thousand five hundred dollars, and in those proceedings the Court may, in addition, order him to pay such sum as the Court thinks just for the purpose of repairing or restoring the monument.

23. If, while an interim preservation notice or a preservation order is in force with respect to a monument, it appears to the Minister that owing to neglect the monument is liable to fall into decay, the Minister may make an order (hereinafter referred to as a “guardianship order”) constituting the National Trust guardians of the monument so long as that order is in force, and—

Guardianship orders.

(a) if the order is made while an interim preservation notice is in force, the order remains in force so long as the notice and any preservation order superseding the notice remains in force;

(b) if the order is made while a preservation order is in force, the guardianship order remains in force so long as the preservation order is in force.

24. (1) For the purpose of preserving the amenities of any national monument, the National Trust may, subject to the provisions of this section, prepare and confirm a scheme (hereinafter in this Act referred to as “a preservation scheme”) for any area comprising or adjacent to

Preservation schemes.
[6 of 1997]

the site of the monument, being an area to which, in the opinion of the National Trust, it is necessary or expedient for that purpose that the scheme should apply.

(2) Every preservation scheme shall define by reference to a map annexed to it the area to which the scheme is applicable (hereinafter in this Act referred to as “the controlled area”) and may provide for any of the following matters, that is to say—

(a) for prohibiting or restricting the construction, erection or execution of buildings, structures and other works above ground within the controlled area, or the alteration or extension of any such buildings, structures or works in such manner as materially to affect their external appearance;

(b) for prescribing the position, height, size, design, materials, colour and screening, and otherwise regulating the external appearance, of buildings, structures and other works above ground within the controlled area;

(c) for prohibiting or restricting the felling of trees, quarrying and excavations within the controlled area;

(d) for otherwise restricting the user of land within the controlled area to such extent expedient for the purpose of preserving as may appear to the National Trust to be the amenities of the monument;

(e) for such other matters as appear to the National Trust to be incidental to or consequential on the provisions of subsections (1) and (2) or to be necessary for giving effect to those provisions.

Second
Schedule.

(3) The provisions of the Second Schedule have effect with respect to the confirmation, variation and revocation of preservation schemes.

(4) Nothing in any preservation scheme affects any building, structure or work above ground or any alteration or extension thereof, if it was constructed, erected or executed before the day when notice of intention to confirm the scheme was published in the *Gazette* under the Second Schedule, and for the purpose of this provision a building,

structure or other work and any alteration or extension thereof shall be deemed to have been constructed, erected or executed before that day—

(a) if its construction, erection or execution was begun before that day; or

(b) if and so far as its construction, erection or execution was necessary for the purpose of performing a contract made before that day.

(5) If a person contravenes any provision of a preservation scheme for the time being in force, he is liable on summary conviction to a fine of six thousand five hundred dollars for every day on which the contravention occurs or continues.

(6) If, after a person has been convicted of a contravention of a preservation scheme by reason that any building, structure or other work is not in conformity with the scheme, the contravention continues after the expiration of such period as the Court before whom he was convicted may determine, the National Trust have power to do all such acts, as in their opinion, are necessary for removing so much of the building, structure or work as is not in conformity with the scheme, or for making it conform with the scheme, and any expenses incurred by the National Trust in so doing is recoverable in a magistrate's court as a civil debt from the person convicted, irrespective of the amount.

25. To such extent, if any, as may be required by article 8 of the Constitution, provision is hereby made in terms of paragraph (1) (a) and (b) of that article in relation to any property including any interest in or right over such property, compulsorily taken possession of or compulsorily acquired by the National Trust in exercise of their powers under section 15, 20, 21 or 23.

Compensation.
c. 1:01

26. (1) Every document required or authorised to be served under this Act upon an owner or occupier of a monument may be served either by delivering it or leaving it at the usual or last known place of abode of the person on whom it is to be served or by sending it by

Service of
documents.

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registered post addressed to him at his last-known place of abode, or if that cannot be found, by fixing it on some conspicuous part of the monument.

(2) Any such document may, as the case requires, be addressed to the “owner” or “occupier” of the monument (describing it) without further name or description.

Exemption from stamp duties and taxes.

27. Notwithstanding anything contained in any other law—

(a) an instrument necessary for transferring to, or vesting in, the National Trust upon which or in respect of which stamp duties, registration or recording fees are payable, is exempt from the payment of such duties or fees; and

(b) the National Trust, in relation to all property whatsoever held or dealt with by them for the purposes of this Act, is exempt from the payment of property tax, corporation tax, income tax and capital gains tax;

c. 81:23

(c) estate duty is not payable under the Estate Duty Act in respect of property bequeathed absolutely to the National Trust.

Supplementary provisions.

28. The Minister shall not serve an interim preservation notice, or make a preservation order or a guardianship order, and the National Trust shall not issue an authorisation under section 20(3) with respect to a monument that appears to the Minister or to the National Trust, as the case may be, to be occupied as a dwelling-house, otherwise than by a person employed as a caretaker thereof or his family.

Regulations.

29. The Minister may make such regulations as may be necessary or expedient generally for carrying out the provisions of this Act and, without prejudice to the generality of the foregoing may make regulations for—

(a) securing the full and effectual performance of any function conferred upon the National Trust by this Act;

(b) regulating the hours during which, the means whereby, the purposes for which and the conditions subject to which members of the public may have access to any national

monument vested in the National Trust, including authority to cause to be collected charges for such access; and

(c) regulating inquiries under the First and Second Schedules.

First Schedule.
Second
Schedule.

FIRST SCHEDULE

ss. 21, 29

PROCEDURE FOR MAKING PRESERVATION ORDERS

1. Before making a preservation order in relation to any monument, the Minister shall—

(a) cause a draft of the proposed order to be published in the *Gazette*;

(b) send a copy of the draft to each local authority in whose area the monument is situate;

(c) publish once in a newspaper circulating in Guyana a notice stating that the order is proposed to be made and the effect of the order and specifying the time (not being less than twenty-eight days from the first publication of the notice in such a newspaper) within which and the manner in which objections to the proposed order can be made;

(d) serve on the owner of the monument and (if the owner is not the occupier) on the occupier of the monument a copy of the draft of the proposed order, together with a notice stating the effect thereof and specifying the time (not being less than twenty-eight days from the service, of the notice) within which and the manner in which objections to the proposed order can be made;

(e) cause a copy of the draft of the proposed order to be fixed on some conspicuous part of the monument.

2. (1) The Minister, after considering any representations and objections duly made to the order by the owner or occupier of the monument or by any other person appearing to the Minister to have an interest in the monument, may make the order either in terms of the draft or with modifications thereof except that where an objection has

been duly made as aforesaid and has not been withdrawn, the Minister, unless he considers the objection to be frivolous or has modified the order as required by the objection, shall before making the order, direct a public inquiry to be held as hereinafter provided and consider the report of the person who held the inquiry.

(2) An inquiry under this Schedule shall be held in accordance with regulations made by the Minister for the purpose, and such regulations may contain provisions as to the costs of the inquiry.

3. (1) As soon as may be after the order has been made, the Minister shall publish it in the *Gazette* and in a newspaper circulating in Guyana together with a statement of the effect thereof, and shall serve a copy of the order on every person on whom a copy of the draft order was required to be served under paragraph 1 and on any other person appearing to the Minister to have an interest in the monument who duly made an objection which has not been withdrawn, and the order shall come into force on the day on which it is published in the *Gazette*.

(2) The Minister shall also, as soon as may be after the order has been published, cause a copy of the order to be fixed on some conspicuous part of the monument.

ss. 24(3), 29

SECOND SCHEDULE

PROVISIONS AS TO CONFIRMATION VARIATION AND REVOCATION OF PRESERVATION SCHEMES

1. Before confirming a preservation scheme (hereinafter in this Schedule referred to as a “scheme”) the National Trust shall cause to be published in the *Gazette*, and in such other manner as they think best for informing persons affected, notice of their intention to confirm the scheme, of the place where copies of it may be inspected, and of the time (which shall not be less than three months) within which and the

manner in which representations with respect to the scheme may be made, and shall cause such notice to be given to every local authority in whose area any part of the controlled area is comprised.

2. A person affected by the scheme may, within the time appointed under paragraph 1 for making representations, send to the National Trust written objection to the scheme stating the specific grounds of objection and the specific modifications required.

3. The National Trust, after considering any representations and objections duly made with respect to a scheme may, by order, confirm the scheme either with or without modifications except that—

- (a) where an objection has been duly made to the scheme by any person affected thereby and has not been withdrawn, the National Trust, unless they consider the objection to be frivolous or have modified the scheme as required by the objection shall, before confirming the scheme direct a public inquiry to be held as hereinafter provided and consider the report of the persons who held the inquiry; and
- (b) a scheme as so confirmed does not apply to any area to which it would not have applied if it had been confirmed without modification.

4. An inquiry under this Schedule is held in accordance with regulations made by the Minister for the purpose, and the regulations may contain provisions as to the costs of the inquiry.

5. A scheme when confirmed shall come into force on such day as may be specified in the order confirming it.

6. As soon as may be after the making of an order under this Schedule, the order shall be published in the *Gazette* and in such other manner as the National Trust think best for informing persons affected, and a copy of the order shall be sent to every local authority in whose area any part of the controlled area is comprised.