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Cultural Endowment of Estonia Act

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

Passed 1 June 1994

(RT¹ I 1994, 46, 772),

entered into force 1 July 1994,

amended by the following Acts:

29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123;

09.10.2002 entered into force 01.11.2002 - RT I 2002, 87, 506;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

12.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357;

29.01.2002 entered into force 04.03.2002 - RT I 2002, 21, 117;

05.05.97 entered into force 26.05.97 - RT I 1997, 37, 571;

18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166.

Chapter I

General Provisions

§ 1. Cultural Endowment of Estonia

(1) The Cultural Endowment of Estonia (hereinafter the Cultural Endowment) is a legal person in public law the objective of the activities of which is to support the arts, folk culture, physical fitness and sport and the construction and renovation of cultural buildings by the accumulation of funds and distribution thereof for specific purposes. Grants of the Cultural Endowment for individuals are equivalent to state grants.

(09.10.2002 entered into force 01.11.2002 - RT I 2002, 87, 506)

(2) For the purposes of this Act, folk culture includes folk art including the traditional (folkloric) areas of folk art, the activities of societies and informal education.

(3) The Cultural Endowment shall operate pursuant to this Act and other legislation.

(3¹) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

(4) The activities of the Cultural Endowment are terminated by an Act.

(5) The Cultural Endowment shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

(12.06.2002 entered into force 01.08.2002 - RT I 2002, 57, 357)

§ 2. Functions of Cultural Endowment

The functions of the Cultural Endowment are to:

1) support projects which promote, introduce and popularise the arts and sport, artistic associations, research related to culture and sport, and to further the development of the arts, folk culture, physical fitness and sport;

2) support outstanding figures in the arts and sport, and their families upon their death;

3) support talented persons with development potential in various areas of culture and sport and to facilitate their individual development;

4) support the commemoration of deceased figures in the arts and sport;

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

5) support the construction and renovation of cultural buildings which are of national importance.

(09.10.2002 entered into force 01.11.2002 - RT I 2002, 87, 506)

Chapter II

Assets of Cultural Endowment

§ 3. Property of Cultural Endowment

The Cultural Endowment shall possess, use and dispose of its assets pursuant to procedure and under the conditions provided for in this Act and other legislation.

§ 4. Assets of Cultural Endowment

(1) Assets of the Cultural Endowment shall be formed from:

1) proceeds pursuant to the Alcohol Excise Act (RT I 2000, 58, 375; 102, 676; 2001, 88, 531; 2002, 90, 521; 2003, 2, 17) and the Tobacco Excise Act (RT I 1994, 54, 901; 2001, 51, 296; 87, 528; 88, 531; 2003, 2, 17);

2) proceeds from gambling tax pursuant to the Gambling Tax Act (RT I 2002, 28, 158; 90, 521);

3) property donations and bequests made in favour of the Cultural Endowment;

4) income received from investment of the assets of the Cultural Endowment;

5) income from other economic activities;

6) other income.

(2) In order to ensure the sustainability of the activities of the Cultural Endowment, the supervisory board shall appropriate a portion of assets to increase fixed capital. Fixed capital shall not be reduced.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 4¹. Use of assets of Cultural Endowment

(1) The Cultural Endowment shall use its assets only for the purposes provided by this Act.

(2) Donations and bequests intended for specific purposes may be used only for the purposes designated by the donor or bequeather.

(3) After the increase of fixed capital and allocation of the amounts intended for cultural buildings pursuant to the Gambling Tax Act, the supervisory board of the Cultural Endowment shall appropriate 75 per cent of annual revenue of the Cultural Endowment to the disposal of its endowments, and 25 per cent to the disposal of county expert groups for financing cross-disciplinary and county cultural projects and the administrative expenses.

(4) The assets of the Cultural Endowment may be invested pursuant to the requirements provided by this Act and the resolutions of the supervisory board, and preservation, liquidity and productivity of the assets and risk-spreading necessary for the purposes of the Cultural Endowment shall be ensured.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 5. (Repealed - 29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 6. Economic activities of Cultural Endowment

(1) For performance of the functions prescribed by this Act, the Cultural Endowment has the right to:

- 1) acquire and transfer immovable and movable property;
- 2) subject immovables and movables to a commercial lease;
- 3) organise benefit events and lotteries on the bases provided by law;
- 4) distribute products with its insignia.

(2) The Cultural Endowment shall not assume any obligations not arising from this Act, including grant of loans, securing the performance of debt obligations by other persons or pledging of assets. The Cultural Endowment shall not grant loans or found or participate in legal persons in private law.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 6¹. Investment of assets of Cultural Endowment and limitations thereon

(1) The Cultural Endowment may organise the investment of its assets directly or through an asset manager. The Public Procurement Act (RT I 2000, 84, 534; 2001, 40, 224; 50, 284; 2002, 23, 131; 47, 297; 61, 375; 63, 387; 87, 505; 99, 577) need not be applied upon selection of the asset manager.

(2) The asset manager may be:

- 1) the Bank of Estonia;
- 2) the Ministry of Finance;
- 3) a company registered in Estonia or a branch thereof which has the right to act as a management company, credit institution or investment firm.

(3) The assets of the Cultural Endowment may be invested in the deposits of credit institutions, in the securities specified in clauses 2 (1) 2), 4) and 5) of the Securities Market Act (RT I 2001, 89, 532; 2002, 23, 131; 63, 387; 102, 600; 105, 612) and in immovables. For the purposes of managing risks arising from investments, the Cultural Endowment may acquire securities specified in clause 2 (1) 6) of the Securities Market Act and enter into transactions with derivative instruments.

(4) The value of securities and immovables specified in subsection (3) of this section which belong to the Cultural Endowment shall not total more than 100 per cent of the fixed capital of the Cultural Endowment.

(5) The net asset value of units of investment funds which belong to the Cultural Endowment shall not total more than 35 per cent of the fixed capital of the Cultural Endowment, and units may be acquired from investment funds the assets of which may, directly or through other investment funds, be invested in securities specified in clauses 2 (1) 1) and 3) of the Securities Market Act.

(6) The Cultural Endowment shall not own immovables the acquisition cost of which totals more than 10 per cent of the fixed capital of the Cultural Endowment.

(7) A deposit placed with one credit institution shall not total more than 40 per cent of the assets of the Cultural Endowment.

(8) The value of securities issued by one person and persons belonging to the same group with the person shall not total more than 20 per cent of the fixed capital of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 6². Limitations on entry into transactions with interested persons

(1) For the purposes of this Act, an interested person is:

1) members of the supervisory board and the Director of the Cultural Endowment and other employees of the Cultural Endowment;

2) the spouses and close relatives of persons specified in clause 1) of this subsection within the meaning of the Anti-corruption Act (RT I 1999, 16, 276; 87, 791; 2000, 25, 145; 2001, 58, 357; 2002, 53, 336; 63, 387; 2003, 18, 108);

3) an auditor of the Cultural Endowment;

4) companies in which persons specified in clauses 1)-3) of this subsection hold either directly or through other persons more than 10 per cent of the share capital;

5) companies in which persons specified in clauses 1) and 2) of this subsection are members of their directing bodies.

(2) The Cultural Endowment is prohibited from transferring the assets of the Cultural Endowment to interested persons or acquire assets therefrom out of the funds of the Cultural Endowment otherwise than on a stock exchange or other organised public securities market or by public auction.

(3) Members of the supervisory board of the Cultural Endowment shall not apply for the grants of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 7. (Repealed - 29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 8. Supervision of activities of Cultural Endowment

(1) The State Audit Office shall audit the activities of the Cultural Endowment pursuant to the State Audit Office Act.

(2) The supervisory board of the Cultural Endowment shall invite an auditor to audit the activities of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 9. Accounting

(1) The Cultural Endowment shall organise accounting pursuant to the Accounting Act (RT I 2002, 102, 600) and other legislation.

(2) The financial year of the Cultural Endowment starts on 1 January and ends on 31 December.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

Chapter III

Structure and Management of Cultural Endowment

§ 10. Endowments

(1) The Cultural Endowment is comprised of endowments for the following areas of culture:

- 1) literature;
- 2) music;
- 3) visual and applied arts;
- 4) architecture;
- 5) dramatic art;
- 6) audio-visual art;
- 7) folk culture;
- 8) physical fitness and sport.

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

(2) An endowment is a structural unit of the Cultural Endowment the function of which is to distribute the money appropriated to a specific area of culture by the supervisory board of the Cultural Endowment on the basis of submitted applications and on its own initiative.

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

§ 10¹. County expert groups

(1) A county expert group (hereinafter expert group) is a structural unit of the Cultural Endowment which acts in every county and the function of which is to distribute the money appropriated to the areas of culture of the county by the supervisory board of the Cultural Endowment on the basis of submitted applications and on its own initiative.

(2) An expert group shall:

- 1) allocate the money appropriated to the disposal of the expert group;
- 2) submit on its own initiative county cultural projects to the supervisory board of the Cultural Endowment for awarding grants;
- 3) prepare annual reports on its activities to the supervisory board of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 11. Supervisory board of Cultural Endowment

(1) The activities of the Cultural Endowment are directed by a supervisory board of eleven members including:

- 1) the Minister of Culture as chairman;
- 2) a representative designated by the Minister of Culture;
- 3) a representative designated by the Minister of Finance;
- 4) a representative designated by each endowment panel.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(2) The supervisory board of the Cultural Endowment shall:

- 1) establish the procedure for the investment of assets of the Cultural Endowment and for entry into other transactions, and prescribe limitations on the management of the financial risks relating to the types of assets, currency structure, duration of instruments and investments, and other investment indicators;
- 2) distribute annual revenue pursuant to subsection § 4¹ (3) of this Act;
- 3) decide on financing cross-disciplinary cultural projects and projects initiated by endowments and expert groups;
- 4) allocate the amounts intended for cultural buildings pursuant to the Gambling Tax Act according to the ranking of the construction and renovation of cultural buildings which are of national importance, which is approved by a resolution of the Riigikogu² and support up to two objects at the same time;
- 5) determine limitations on the amount of grants per year and per quarter awarded by the endowments and expert groups;
- 6) analyse the results of the activities of the expert groups, endowments and of the Cultural Endowment;
- 7) organise the publication of annual overviews of the activities of the Cultural Endowment;
- 8) hire and release internal auditors of the Cultural Endowment;
- 9) approve the annual budget and audited annual report of the Cultural Endowment;
- 10) determine a separate budget prescribed for an internal audit in the funds prescribed for the administrative expenses of the Cultural Endowment and approve the work schedule of internal auditors;
- 11) determine the amount of remuneration to be paid to members of the endowment panels and members of expert groups and the procedure for payment thereof;
- 12) approve the structure of the Cultural Endowment;
- 13) appoint to and release from office the Director of the Cultural Endowment;
- 14) exercise supervision over the activities of the Director, endowments and expert groups;
- 15) make proposals and express opinions concerning issues involving the development of the arts, folk art, physical fitness and sport and relating to the performance of functions provided for in this Act;

16) select an asset manager set out in subsection 6¹ (1) of this Act and approve the conditions of the agreement to be entered into with the asset manager;

17) decide, on the proposal of the Director, the acquisition and transfer of immovables.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(3) The term of authority of the supervisory board is two years.

(05.05.97 entered into force 26.05.97 - RT I 1997, 37, 571)

(4) (4) The membership of the supervisory board shall be approved by the Government of the Republic.

(05.05.97 entered into force 26.05.97 - RT I 1997, 37, 571)

§ 12. Members of supervisory board of Cultural Endowment

(1) The members of the supervisory board shall perform their functions until a new membership of the supervisory board is approved. Members of the supervisory board, except the Minister of Culture, may participate in only two consecutive memberships of the supervisory board.

(2) A member of the supervisory board shall be excluded from the membership of the supervisory board upon his or her removal, on the basis of his or her application, or upon his or her death.

(3) Members of the supervisory board of the Cultural Endowment shall receive remuneration for performance of functions related to the work of the supervisory board. The Government of the Republic shall approve the amount of remuneration on the proposal of the chairman of the supervisory board of the Cultural Endowment and remuneration shall be paid from funds prescribed in the budget of the Cultural Endowment for administrative expenses. No remuneration shall be paid to the chairman of the supervisory board of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(4) The members of the supervisory board shall elect the deputy chairman of the supervisory board from among themselves.

§ 13. Procedures of supervisory board of Cultural Endowment

(1) A session of the supervisory board shall be convened by the chairman as required but not less frequently than once per quarter. The members of the supervisory board shall be notified of a session in writing not later than twenty days in advance.

(2) An extraordinary session of the supervisory board shall be convened within two weeks if at least six members of the supervisory board so require.

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

(3) The supervisory board has a quorum if at least six members of the supervisory board are present, including the chairman or deputy chairman.

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

(4) The supervisory board adopts resolutions by a simple majority of the members present at a session. Resolutions on matters specified in clauses 11 (2) 1)-5), 8)-13), 16) and 17) of this Act shall be adopted by a simple majority of the membership of the supervisory board.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(5) The resolutions of the supervisory board shall be recorded in the minutes and communicated to the endowment panels within one week.

§ 13¹. Liability of members of supervisory board

(1) Members of the supervisory board shall be solidarily liable for any damage wrongfully caused to the Cultural Endowment by violation of the requirements of this Act or by failure to perform their duties.

(2) A member of the supervisory board shall be released from liability to the Cultural Endowment if he or she maintained a dissenting opinion in the adoption of the resolution which was the basis for the illegal activity, and the dissenting opinion is recorded in the minutes, or if he or she was absent from the session in which such resolution was adopted.

(3) The limitation period for submission of claims against a member of the supervisory board shall be five years as of violation of an obligation.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 14. Endowment panel

(1) The activities of each endowment are organised by an endowment panel of this endowment consisting of seven persons active in the corresponding area of culture and who are nominated by organisations of this area of culture.

(05.05.97 entered into force 26.05.97 - RT I 1997, 37, 571)

(2) The membership of an endowment panel shall be approved by the Minister of Culture.

(3) An endowment panel shall:

- 1) appoint a representative of the endowment to the supervisory board of the Cultural Endowment;
- 2) allocate the money appropriated to the disposal of the endowment;
- 3) submit projects for cross-disciplinary initiatives to the supervisory board of the Cultural Endowment for awarding grants;
- 4) monitor the purposeful use of grants awarded by the endowment;
- 5) prepare the annual report on the activities of the endowment;
- 6) make proposals to the supervisory board of the Cultural Endowment;
- 7) perform other functions assigned by the supervisory board of the Cultural Endowment.

(18.01.96 entered into force 16.02.96 - RT I 1996, 8, 166)

(4) A panel has the right to remove its representative from the supervisory board of the Cultural Endowment.

(5) The term of authority of a panel is two years.

(05.05.97 entered into force 26.05.97 - RT I 1997, 37, 571)

§ 15. Members of endowment panel

(1) The members of a panel shall perform their functions until a new membership of the panel is approved. The same person may belong to two consecutive memberships of a panel.

(2) A member of a panel shall be excluded from the membership of the panel upon his or her removal, on the basis of his or her application, or upon his or her death. A new representative shall be appointed as a replacement for the released member of a panel pursuant to subsection 14 (1) of this Act.

(3) (Repealed - 29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(4) The members of a panel shall elect the chairman and deputy chairman of the panel from among themselves.

§ 16. Procedures of endowment panel

(1) The first meeting of every membership of an endowment panel shall be convened by the Minister of Culture, and thereafter by the chairman of the endowment panel as required but not less frequently than once per quarter. The members of a panel shall be notified of a session in writing not later than ten days in advance.

(2) An extraordinary meeting of an endowment panel shall be convened within two weeks if at least four of its members so require.

(3) A panel has a quorum if at least five members of the panel are present, including the chairman or deputy chairman.

(4) A panel adopts resolutions by a simple majority of the members present at a session.

(5) The resolutions of a panel shall be recorded in the minutes and communicated to the Director of the Cultural Endowment within one week.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

(6) Resolutions of a panel shall not be contested, except if subsections (3) or (5) of this section are violated.

§ 16¹. Members and procedures of expert group

(1) An expert group consists of five members and its membership shall be approved from among persons acting in an area of culture in the county for a term of two years by the supervisory board of the Cultural Endowment.

(2) The provisions of §§ 15 and 16 of this Act concerning endowment panels apply to the member and procedures of expert groups, taking into account the specific provisions arising from this section.

(3) The members of an expert group shall perform their functions until a new membership is approved by the supervisory board of the Cultural Endowment. Upon exclusion of a member from the membership, the supervisory board shall appoint a new member to the vacant position in the expert group from among persons acting in an area of culture in the county.

(4) The first meeting of every membership of an expert group shall be convened by the chairman of the supervisory board of the Cultural Endowment.

(5) A meeting of an expert group has a quorum if four members are present, including the chairman or deputy chairman. At least three members may demand calling of an extraordinary meeting.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 16². Director

(1) The Cultural Endowment shall be directed and represented by a Director appointed by the supervisory board.

(2) The term of authority of the Director shall be up to four years.

(3) The Director shall enter into an agreement determining the rights and obligations of the Director, the amount of remuneration paid to the Director and other conditions necessary for the activities. On behalf of the Cultural Endowment, the agreement shall be signed by the chairman of the supervisory board.

(4) The supervisory board has the right to remove the Director at any time.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 16³. Competence of Director

The Director shall:

- 1) dispose of the assets of the Cultural Endowment pursuant to resolutions of the supervisory board of the Cultural Endowment;
- 2) organise the implementation of resolutions of the supervisory board of the Cultural Endowment and be liable for the lawful implementation of the resolutions;
- 3) report on his or her activities to the supervisory board of the Cultural Endowment and submit an overview of the economic situation of the Cultural Endowment four times a year;
- 4) inform the supervisory board immediately of any material deterioration of the economic condition of the Cultural Endowment or any other material circumstances related to the economic activities;
- 5) submit the draft annual budget and the audited annual report of the Cultural Endowment to the supervisory board of the Cultural Endowment;
- 6) hire and release employees of the Cultural Endowment, except internal auditors;
- 7) enter into contracts with grant recipients of the Cultural Endowment pursuant to the resolutions of the supervisory board, endowment panels and expert groups;
- 8) approve the internal work procedure rules and operations procedure of the Cultural Endowment;

9) organise the taking of minutes at the meetings of the supervisory board and ensure the registration of resolutions of the supervisory board, endowment panels and expert groups;

10) decide on other management issues which are not placed in the competence of the supervisory board by this Act.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 16⁴. Liability of Director

(1) The Director shall be liable for causing damage to the Cultural Endowment by violation of his or her obligations. The Director shall be released from liability if he or she has acted pursuant to a lawful resolution of the supervisory board of the Cultural Endowment.

(2) The limitation period for submission of claims against the Director shall be five years as of violation of an obligation.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 16⁵. Internal control system and internal audit

(1) The internal control system of the Cultural Endowment shall cover all levels of management and operations and ensure the purposeful and effective operation of the Cultural Endowment and compliance of the operation with legislation.

(2) An internal auditor hired by the supervisory board shall be liable for the internal audit of the Cultural Endowment. If necessary, the supervisory board may form a corresponding structural unit under the direction of the internal auditor.

(3) In the course of an internal audit, the following shall be assessed:

1) the functioning and efficiency of the internal control system of the Cultural Endowment;

2) the allocation of funds by the supervisory board, endowments and county expert groups and use of the funds;

3) the legality, purposefulness and efficiency of management measures;

4) the purposefulness of the use of assets;

5) the sufficiency of the existing rules of procedure and documentation in order to ensure the lawful activities of the Cultural Endowment;

6) compliance with the precepts of the State Audit Office and proposals of auditors.

(4) An internal auditor has the right to examine all the documents of the Cultural Endowment and obtain oral and written explanations from the Director and employees of the Cultural Endowment and all members of the supervisory board, endowment panel and county expert group.

(5) An internal auditor shall report on implementation of his or her work schedule to the supervisory board twice a year and shall make proposals concerning measures necessary for the elimination of deficiencies and prevention of errors as and when necessary.

(6) An internal auditor shall immediately inform the Director and the chairman of the supervisory board of circumstances which refer to the violation of legislation or may damage the assets or reputation of the Cultural Endowment.

(29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

§ 17. (Repealed - 29.01.2003 entered into force 13.03.2003 - RT I 2003, 21, 123)

Chapter IV

Implementing Provisions

§ 18. Commencement of activities of Cultural Endowment

(1) The Minister of Culture shall approve the memberships of the endowment panels provided for in § 10 of this Act within three months after the entry into force of this Act.

(2) The Government of the Republic shall approve the membership of the supervisory board of the Cultural Endowment within four months after the entry into force of this Act.

[§ 19 omitted]³

§ 20. Entry into force of Act

(1) This Act enters into force on 1 July 1994.

(2) Subsection 19 (3) of this Act enters into force on 1 January 1995.

¹ RT = *Riigi Teataja* = *State Gazette*

² Riigikogu = the parliament of Estonia

³ Omitted section amends other legislation