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GRENADA

ACT NO. 10 OF 2011**I assent,**

22nd July, 2011.

CARLYLE ARNOLD GLEAN

Governor-General.

AN ACT to provide for the establishment of the Spicemas Corporation for promoting Carnival and other related activities in Grenada, and to provide for matters incidental thereto, and purposes connected therewith.

[By Notice].

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives, and by the authority of the same as follows—

PART I

PRELIMINARY

Short title and commencement.

1.— (1) This Act may be cited as the

SPICEMAS CORPORATION ACT, 2011.

(2) This Act shall come into force on a date to be fixed by the Minister by Notice published in the *Gazette*.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

“agent” means any individual or body corporate contracted by the Corporation to market and promote carnival and all connected activities on behalf of the Corporation;

“Board” means the Spicemas Corporation Board as established under section 7;

“carnival” includes the promotion, organisation and co-ordination by the Corporation of a carnival festival or activity towards the promotion of culture, which commences on the date of the launch of carnival by the Corporation and climaxes between the hours of five o’clock in the morning of the second Monday in August and midnight on the day following;

“Chairperson” means the Chairperson of the Board and includes any person for the time being performing the functions of the Chairperson;

“Chief Executive Officer” means the Chief Executive Officer of the Corporation appointed under section 14 and includes any person appointed to act as Chief Executive Officer;

“component of carnival” includes calypso, mas and steelband associations;

“Corporation” means the Spicemas Corporation established under section 3;

“financial year” means the period of twelve months commencing on the 1st day of January and ending on the 31st day of December;

“function” includes powers and duties;

“member” means a member of the Board and includes the Chairperson and Deputy Chairperson;

“Minister” means the Minister responsible for culture;

“State” means the State of Grenada.

(2) This Act does not apply to carnival festivals and activities held in Carriacou each year which climaxes on the Tuesday immediately proceeding Ash Wednesday.

PART II

ESTABLISHMENT OF THE SPICEMAS CORPORATION

Establishment of the Corporation.

3.—(1) There is hereby established a Corporation which shall be also known as the Spicemas Corporation.

(2) The Corporation shall be a body corporate to which section 49 of the Interpretation Act shall apply.

Powers and duties of the Corporation.

4.—(1) The Corporation shall be the sole body responsible for operating, organizing and managing and promoting carnival within and outside Grenada in accordance with the provisions of this Act.

(2) Notwithstanding the generality of sub-section (1), the Corporation shall—

- (a) organize, promote, conduct and control the operation and management of carnival either independently or in conjunction with any other company or organization concerned with the development and promotion of carnival;
 - (b) carry on any form of activity and business related to carnival that may from time to time be approved by the Board;
 - (c) make arrangements for the proper and prompt payment of the prize monies for carnival competitions held and organized by the Corporation;
 - (d) promote and oversee public education related to calypso, mas and pan development in collaboration with relevant government and non-governmental organizations;
 - (e) advise the Minister on the development of all forms of carnival festivals or activities in Grenada; and
 - (f) engage in any activity which it deems to be necessary or conducive to the proper discharge of its functions.
- (3) The functions of the Corporation shall include—
- (a) creating adequate sub-committees which shall be responsible for producing carnival shows under the auspices of the Corporation;
 - (b) co-ordinating all of the carnival festivals and activities;

- (c) developing and implementing marketing strategies for the promotion of carnival;
- (d) securing financial and other sponsorship for carnival;
- (e) acting as the co-ordinating and facilitating body for carnival festivals and activities;
- (f) preparing and issuing guidelines for the organization of and participation in carnival shows;
- (g) organising and managing carnival shows;
- (h) preparing an annual budget that must be submitted to the Minister for approval;
- (i) providing prize monies to the persons entitled to such;
- (j) consulting with the various components of carnival in order to improve the content of shows;
- (k) approving the material contents of calypso and pageant shows in order to ensure compliance with the laws of the State;
- (l) preparing and enforcing rules governing the participation in and judging of shows which shall be issued to the relevant persons prior to the finalisation of the programme to which they relate;

- (m) ensuring that the components of carnival are allowed to conduct their internal affairs without interference, save and except that where irreconcilable differences arise within and between any component of carnival, the Corporation shall have the authority to make final determinations in order to safeguard the integrity of carnival;
- (n) submitting quarterly reports to the Minister;
- (o) assisting the pan, calypso and mass components of the carnival with institutional strengthening.

Persons holding
carnival festival
with or without
a licence.

5.—(1) A person shall not hold a carnival festival or activity in an area declared under section 20 to be the location for a carnival festival or activity operated by the Corporation unless the person obtains a licence from the Board to do so.

(2) Subject to subsection (3), a person may hold a carnival festival or activity in a place outside the area declared under subsection 20, to be the location of the carnival festival or activity operated by the Corporation.

(3) Where a person holds a carnival festival or activity without obtaining a licence from the Board under subsection (2), he shall not be entitled to any assistance, financial or otherwise from the Board.

(4) A person who is desirous of obtaining a licence from the Board to hold a carnival festival or activity shall make an application in writing to the Board after the date of the official launching of carnival by order of the Corporation.

(5) An application shall contain such particulars as shall be prescribed by the Board.

(6) If the Board is satisfied that the application is complete and the person making the application is eligible to operate a carnival festival or activity, it may grant the application and issue to the applicant a licence subject to such terms and conditions as it considers necessary.

(7) Any person who is aggrieved by a decision of the Board may appeal to the Minister against the decision.

(8) Every appeal under sub-section (7) shall be made to the Minister within fourteen days of the date of the notice of the decision appealed against and shall set out the ground for appeal and where applicable be submitted with a copy of the decision appealed against.

(9) The Minister shall request the records relating to the matter from the Board, which shall submit them to the Minister within seven days, and within fourteen days of the receipt of such records the Minister shall submit them to an appeal tribunal appointed by him to adjudicate on the matter.

(10) The appeal tribunal appointed by the Minister under subsection (9) shall consist of one or more, but not more than three persons to be appointed by the Minister upon prior approval of Cabinet.

(11) The qualification for and terms of service of a member of the appeal tribunal shall be determined by Cabinet.

(12) The appeal tribunal may regulate its own procedure.

(13) The appeal tribunal may, after making such enquiry as it thinks fit and after giving the appellant a reasonable opportunity to present his case—

- (a) allow or dismiss the appeal;
- (b) uphold the decision of the Board; or
- (c) reserve or vary the decision of the Board;

and without prejudice to the right of an aggrieved party to the appeal to apply to the Supreme Court for relief, every decision of the tribunal shall be final.

Restriction on person holding carnival festival or activity.

6. Any person who is desirous of holding a carnival festival or activity on a day on which carnival festival or activity of the Corporation is scheduled to take place shall not be allowed to do so if such festival or activity is deemed by the Corporation to have competing interests with its event.

Establishment of Board.

7.—(1) The Corporation shall be managed by a Board which shall consist of the following persons appointed by the Minister upon prior approval from Cabinet—

- (a) a Chairperson;
- (b) a Police Officer, not below the rank of Inspector;
- (c) an attorney-at-law with no less than five years standing;
- (d) subject to subsection (2) a person nominated from each of the following Associations—
 - (iv) the Grenada Mass Bands Association;

- (v) the Grenada Steel Band Association; and
- (vi) the Calypso fraternity;
- (e) three other persons who are qualified in one or more of the following areas—
 - (v) business and financial management;
 - (vi) human resource management;
 - (vii) marketing and advertising; and
 - (viii) public relations; and
- (f) the Chief Executive Officer, who shall be an ex-officio member and the secretary to the Board.

(2) A person nominated under subsection (1) (d) shall not be the leader or a person actively involved in the management or organization of a mas band, a steel band or a calypso association.

(3) A member of the Board shall be appointed by the Minister for a term not exceeding three years and shall be eligible for re-appointment.

(4) The member of the Board shall at the first meeting of the Board, elect a Deputy Chairperson from amongst their membership.

(5) If a member is absent on account of illness or for any temporary cause or is temporarily absent from the State, the Minister shall for a period not exceeding three months appoint some other person to act as a temporary member.

(6) A member of the Board may at any time resign his office by instrument in writing addressed to the Chairperson who shall immediately cause it to be forwarded to the Minister.

(7) If a person ceases to be a member of the Board for any reason, Cabinet may appoint some other person in his place for the duration of time for which that member would have served.

(8) Cabinet may at any time revoke the appointment of any member of the Board if it is expedient to do so.

Meetings and
procedure of the
Board.

8.—(1) Subject to subsection (21), the Board shall meet at least once per month for the transaction of business and the meetings shall be held at the place, time and day that the Board may determine.

(2) The Chairperson shall call a special meeting of the Board—

- (a) within seven days of a requisition for that purpose addressed to him by three members to consider the matters stated in the requisition; or
- (b) if directed by the Minister to do so.

(3) The Chairperson, or in his absence the Deputy Chairperson, or some other members shall preside at all meetings of the Board.

(4) The Chairperson, or in his absence the Deputy Chairperson, and five other members shall constitute a quorum.

(5) Subject to section 11, if a member is disqualified from taking part in any deliberation or decision of the Board with respect to any matter in which he has an interest he shall be disregarded for the purposes of constituting a quorum from deliberating or deciding on that matter.

(6) Decisions taken by the Board must be determined by a vote of the majority of the members present at the meeting of the Board and where the votes are equally divided, the Chairperson shall have a casting vote.

(7) The minutes of the proceedings of the Board shall be kept in a manner determined by the Board and when confirmed shall bear the signature of the Chairperson or Deputy Chairperson.

(8) The Board may co-opt any person to attend a particular meeting of the Board for the purpose of assisting or advising the Board but that person shall not have the right to vote.

(9) Subject to the provisions of this section the Board shall have power to regulate its own proceedings.

Seal of the
Board.

9.—(1) The seal of the Board shall be kept in the custody of the Chairperson or Deputy Chairperson and may be affixed to instruments by the Chief Executive Officer pursuant to a resolution of the Board.

(2) The seal of the Board shall be authenticated by the signature of the Chairperson or Deputy Chairperson and the Chief Executive Officer, and the seal shall be officially and judicially noticed.

(3) All deeds, instruments, contracts and other documents other than those required by law to be under seal,

and all decisions of the Board may be signified under the hand of the Chairperson, or the Deputy Chairperson and the Chief Executive Officer.

Service of notice
on the Board.

10. Service upon the Board of a notice, order or other document is executed by delivering it to the Chief Executive Officer by sending it by registered post addressed to the Chief Executive Officer at the office of the Corporation.

Declaration of
interest.

11.—(1) A member of the Board who is in any way, whether directly or indirectly interested in any application made to the Board or a contract or proposed contract with the Board, shall declare the nature of his interest at the first meeting of the Board at which it is possible for the member to do so.

(2) A member of the Board shall not participate in the discussion of or vote in respect of—

- (a) an application to the Board; or
- (b) a contract or proposed contract with the Board, in which he is in any way directly or indirectly interested.

Power to
delegate.

12. Subject to the provisions of this Act, the Board may delegate to a member of the Board the power and authority to carry out on behalf of the Board any duties to be determined by the Board.

Remuneration
of members and
others.

13.—(1) Any remuneration, fees or allowances payable to the Chairman, Deputy Chairman and other members of the Board shall be determined by the Minister upon prior approval by Cabinet and all remuneration fees or allowances shall be paid from the funds of the Corporation.

(2) If a person, other than a member is co-opted under section (8), the Board may, with the approval of the Minister, agree for an allowance to be paid to the person out of the funds of the Corporation.

Appointment of
Chief Executive
Officer.

14.—(1) The Board shall appoint a Chief Executive Officer upon terms and conditions to be approved by the Board.

(2) The Chief Executive Officer shall be responsible for the day to day operation of the Corporation and must be present at all meetings of the Board unless he is required by the Chairperson to withdraw from a meeting, has obtained a leave of absence from the Chairperson or he is incapacitated by illness or any other cause from attending the meeting.

(3) In the event of the absence of the Chief Executive Officer, the Board may by instrument in writing, appoint a person to act as Chief Executive Officer during the period of absence on the terms and conditions determined by the Board.

Appointment of
officers and
agents.

15.—(1) The Board may employ at such remuneration, terms and conditions it thinks fit such officers and agents necessary for the proper carrying out of its functions under this Act.

(2) Where an agent is employed by the Board, the Board shall prepare a written contract for signature by the Board and the agent setting out the terms of employment of the agent.

Validity of acts
of the Board.

16. The validity of an act done or proceedings taken under this Act shall not be questioned on the grounds of—

- (a) the existence of a vacancy in the membership of or defect in constitution of the Board;

- (b) the contravention by a member of the Board of the provisions of section 11; or
- (c) an omission, effect or irregularity not affecting the merits of the case.

Protection of members.

17. No personal liability shall attach to any member of the Board or the Chief Executive Officer, in respect of anything done or suffered in good faith under the provisions of this Act.

Issuing of policy directions.

18.—(1) The Minister may, after consultation with the Chairperson, give to the Board, directions of a general character as to the policy to be followed in the performance of its functions, in relation to matters appearing to the Minister to be of public interest.

(2) The Board shall, in accordance with the direction of the Minister, develop specific policy guidelines as it thinks necessary and may circulate and disseminate them with the consent of the Minister.

Directions.

19.—(1) The Minister may in writing, in respect of carnival, authorize the Board to issue guidelines to any member of the Royal Grenada Police Force or to any designated person as defined by this section to give directions—

- (a) to any person attending a carnival festival or activity or selling goods or providing services at the carnival festival or activity, as to the manner in which such activities shall be conducted as may be stipulated by such

member of the Police Force or a designated person;

- (b) to persons selling goods or providing services at such carnival festival or activity regarding—
 - (i) the location at such festival at which goods may be sold or services rendered;
 - (ii) the distance between persons selling goods or providing services at such festival or activity; and
 - (iii) the conditions under which goods may be sold or services rendered at such festival or activity not including the fees to be paid by persons selling goods or rendering services.

(2) When the Minister gives an authorization under subsection (1), he shall cause it to be published in the *Gazette*, and in two local newspapers circulating regularly within Grenada.

(3) A “designated” person referred to in subsection (1) is any person designated in writing by the Board to give directions under this section.

(4) Directions issued by the Board under subsection (1) may be oral and may be varied by the Board during the carnival festival or activity as the Board sees fit.

Demarcation of
location of
carnival festival

20.—(1) The Minister shall by Order publish in the *Gazette* and in at least two local newspapers circulating

or activity
operated by the
Corporation.

regularly in Grenada, demarcate the place or places which shall constitute the location of a carnival festival or activity organized and managed by the Corporation and such location shall be under the jurisdiction of the Corporation during carnival to the extent provided by this Act.

(2) Pursuant to subsection (1) the Minister may also provide that the location stipulated under subsection (1) shall be deemed to include such extended protected perimeter not exceeding 150 yards beyond the actual location as may be designated by him and any regulations, instructions or directions referred to in subsection (1) shall apply to such extended protected perimeter.

(3) Pursuant to section 19 and this section, a person attending a carnival festival or activity or selling goods or providing services at such festival or activity who fails to comply with any direction given to him pursuant to this Act commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

No general
restriction on
use of private
real property.

21. Nothing in this Act shall be construed as restricting or authorizing the restricting of a person in the use and enjoyment of private real property owned, occupied or used by him; nor shall anything in this Act be construed as requiring or authorizing the requiring of a person to pay a fee for the use and enjoyment of private real property owned, occupied or used by him; but the provisions of this Act authorizing the controlling of music, sounds or other noise shall apply to persons owning, occupying or using private real property situated within the actual site or sites of a public festival or within any extended protected perimeter referred to in section 20.

PART III**FINANCIAL PROVISIONS**

Definition of
Minister.

22. For the purposes of this Part, except where expressly stated “Minister” means the Minister responsible for Finance.

Funds of the
Corporation.

23.—(1) The funds and resources of the Corporation shall consist of—

- (a) funds arising from the sale, lease or other disposition of property vested in the Corporation or from the conduct of shows or any other carnival activities;
- (b) funds arising from any source consequential upon the performance of its functions under this Act;
- (c) sums borrowed by the Board for the purpose of meeting any of its obligations or discharging its functions;
- (d) funds allocated to the Corporation by Parliament;
- (e) all other sums or property which may become payable or vested in the Corporation in respect of any matter incidental to its powers and duties.

(2) All sums referred to in sub-section (1) shall be paid into and placed to the credit of the Corporation in one or more bank accounts approved by the Minister.

Borrowing powers.

24. Subject to the provisions of this Act, the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions under this Act.

Guarantee of borrowing by Corporation.

25.—(1) The Minister may guarantee on conditions he may see fit, the payment of the principal, interest and other charges in any authorised borrowing by the Corporation.

(2) The Corporation shall make to the Accountant General, at the time and in the manner directed by the Minister—

- (a) payments of the amounts toward repayment of any sums issued in fulfillment of any guarantee given under this section; and
- (b) payments of interest on what is outstanding for the time being in respect of any sums so issued at a rate that the Minister may direct, and different rates of interest may be directed as regards different sums and as regards interest for difficult periods.

Reserve Fund.

26. The Corporation shall, with the consent of the Minister, establish a Reserve Fund for specific contingencies and this fund shall be dealt with and be applied in accordance with its stated objective, or the objectives that may be deemed expedient by the Board, with the consent of the Minister.

Application of funds.

27. The funds of the Corporation shall be applied for the purposes authorised by this Act and towards the development of culture and any other related programmes approved by the Board with the consent of the Minister.

Account and
audit.

28.—(1) The Corporation shall—

- (a) keep proper books of accounts;
- (b) record its transactions to the satisfaction of the Minister; and
- (c) prepare and retain financial statements in respect of each financial year.

(2) The accounts of the Corporation shall be audited by the Director of Audit or an auditor duly appointed by him in each financial year and the officers and staff of the Corporation shall provide to him all books, deeds, contracts, accounts, vouchers or other documents which he may see it fit to call for.

(3) The Director of Audit may require any person holding or accountable for a document to appear before him and make a signed statement in relation to the document and may require from that person any necessary information regarding same.

(4) A person who, when required to do so fails without reasonable cause to—

- (a) produce a document;
- (b) appear before the auditor;
- (c) make and sign a statement; or
- (d) furnish information

commits an offence and shall be liable upon summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding one month.

Auditor's report. **29.** The Director of Audit shall as soon as practicable and not later than three months after the end of each financial year send copies of the audited financial statements and the report to the Corporation.

Report of the Board. **30.**—(1) The Board shall not later than four months after the expiration of the financial year submit to the Minister a report containing—

- (a) an account of the activities of the Corporation during the preceding financial year in a form which the Minister may direct; and
- (b) the audited financial statements of the Corporation done in accordance with the provisions of section 25 (2);

(2) The Minister of Culture shall, within eight weeks of the receipt of the report, cause a copy of the report together with a copy of the audited statement of the accounts and the report of the Director of Audit to be laid on the table of the House of Representatives.

PART IV

MISCELLANEOUS AND GENERAL PROVISIONS

Exemption from stamp duty and other charges. **31.** Notwithstanding the provisions of any law providing for the registration of documents or the payment of stamp duty, no certificate, receipt, instrument, or other document issued by the Corporation shall be subject to stamp duty, registration fee for charges of a similar nature, nor shall the Corporation be liable for the payment of any search or inspection fee in any registration office.

Income tax exemption.

32. Notwithstanding anything contained in the Income Tax Act, the income of the Corporation shall not be liable to income tax.

Exemption from import duties.

33. Notwithstanding the provisions of any law providing for the payment of customs duties, all equipment, software, advertising and promotional material, stationery and ticket supplies imported by the Corporation for the conduct of its activities shall not be liable to customs duty.

Offences and penalties.

34.—(1) A person who—

- (a) obtains any sum of money from the Corporation by means of any false representation;
- (b) willfully destroys any document of the Corporation,

commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding two years or both.

(2) A person who promotes or conducts any carnival activity in the State without the permission of the Corporation in contravention of section 5 of this Act commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to a term of imprisonment not exceeding one year or both.

(3) If an offence under sub-section (1) is committed by a body corporate, every director or promoter of the body corporate, unless he proves on a balance of probability that the offence was not committed, shall be liable upon summary conviction, to a fine not exceeding seventy-five thousand dollars or to a term of imprisonment not exceeding two years, or both.

Minutes received
in evidence.

35. Minutes of a meeting of the Corporation signed by the Chairperson or Deputy Chairperson are receivable in legal proceedings without further proof that the meeting was duly convened and held and that all members were duly qualified to act.

Unclaimed
prizes.

36. Money prizes awarded during a carnival festival or activity by the Corporation, that are unclaimed without reasonable explanation being given to the Corporation after ninety days shall be transferred to a special account entitled the “unclaimed prizes account” and other prizes shall be sold after ninety days and the monies realized shall be paid into that account.

Regulations.

37. The Minister may make Regulations generally for the proper carrying out of the provisions of this Act, and in particular, may make Regulations—

- (a) for securing the proper and prompt payment of prize monies payable under this Act;
- (b) prescribing any other matter or anything which may be, or is required by this Act to be prescribed; and
- (c) for the control and discipline of staff employed under this Act.
- (d) with respect to—
 - (i) the selling of goods at a carnival festival or activity;
 - (ii) the providing of services at a carnival festival or activity;

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- (iii) the fees to be paid and to whom by those selling goods or providing services at a carnival festival or activity;
 - (iv) the parking of motor vehicles at a carnival festival or activity; and
 - (v) the entry into a carnival festival or activity.

Consequential amendment to the Public Festivals Regulations Act.

38. The Public Festivals Regulations Act is hereby amended by deleting the word “carnival” in the First Schedule.

Repeal.

39. The Carnival Regulation Act, Cap. 41 is hereby repealed.

Passed in the House of Representatives this 31st day of May, 2011.

ADRIAN C. A. HAYES
Clerk to the House of Representatives.

Passed in the Senate this 16th day of June, 2011.

ADRIAN C. A. HAYES
Clerk to the Senate.

GRENADA