



ST. HELENA

## CHAPTER 77

# ST. HELENA NATIONAL TRUST ORDINANCE

### Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legallandlands.gov.sh](mailto:pa.lawofficers@legallandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

	Page
<b>NATIONAL TRUST ORDINANCE</b>	<b>2</b>
Ordinance 10 of 2001 ... in force 1 May 2002	
Amended by Ord. 2 of 2008 ... in force on 1 December 2008	
<b>NATIONAL TRUST REGULATIONS – Section 14</b>	<b>9</b>
Legal Notice 6 of 2002 ... in force 1 May 2002	

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

**CHAPTER 77****NATIONAL TRUST ORDINANCE****ARRANGEMENT OF SECTIONS****PART I  
PRELIMINARY****SECTION**

1. Short Title
2. Interpretation
3. St.Helena National Trust established
4. Principal objects of Trust
5. Specific powers of Trust
6. Governor may grant property to the Trust
7. Certain property of Trust to be inalienable
8. Power to enter into agreements restricting development of land
9. Membership of Trust
10. Liabilities of members of Trust
11. General meetings of Trust
12. Trust Council
13. Powers of Trust Council
14. Governor in Council may make regulations
15. Financial Provisions
16. Tax exemptions
17. Exemption from stamp duty
18. Annual report of Trust

## CHAPTER 77

## NATIONAL TRUST

*(Ordinances 10 of 2001 and 2 of 2008)*

AN ORDINANCE TO ESTABLISH AND MAKE PROVISION FOR THE ST.HELENA NATIONAL TRUST.

**Commencement***[1 May 2002]*PART I  
PRELIMINARY**Short title**

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

**Interpretation**

2. (1) In this Ordinance, unless the context otherwise requires—  
“**Trust Council**” means the Council of the Trust established under section 12;  
“**the President**” means the President of the Council elected under section 12(2)(a);  
“**the Trust**” means the St.Helena National Trust established under section 3;  
“**regulations**” means regulations made by the Governor in Council under section 14.  
(2) For the avoidance of doubt it is hereby declared that any reference to land in this Ordinance shall be read and construed as including a reference to any land which may be under water within the territorial waters of St.Helena.

**St. Helena National Trust established**

3. (1) There shall be established a body corporate to be known as "The St.Helena National Trust" and under that name to have perpetual succession and a common seal, and, subject to the provisions of this Ordinance, with power to acquire, hold and dispose of moveable and immoveable property of whatever kind and to enter into contracts and to do all things necessary for the purposes of its functions.  
(2) The Trust may sue and be sued in its corporate name and may for all purposes be described by that name.  
(3) The seal of the Trust shall be authenticated by the signature of the President and one other member of the Trust Council authorised to act in that behalf and shall be judicially and officially noticed.  
(4) All documents, other than those required by law to be under seal, made by, and all decisions of the Trust may be signified under the hand of the President or any member or officer of the Trust authorised to act in that behalf.

### Principal objects of Trust

- 4.** The principal objects of the Trust shall be—
- (a) to promote the permanent preservation for the benefit of St.Helena of lands and buildings of beauty or historical interest and, in the case of lands, the preservation (so far as possible) of their natural aspect features and animal, plant and marine life;
  - (b) to maintain and manage lands acquired by the Trust as open spaces or places of public resort and buildings so acquired for purposes of public recreation, resort or instruction;
  - (c) to promote the preservation of buildings of public interest or architectural, historic or artistic interest and places of natural interest or beauty and the protection and augmentation of the amenities of such buildings and places and their surroundings;
  - (d) to promote the preservation of furniture, pictures, documents, and chattels of any description having national or historic or artistic interest;
  - (e) to tender advice to the St.Helena Government on any matter contained in this section;
  - (f) to promote the access to and enjoyment of such lands, buildings, places, and chattels by the public;
  - (g) to develop any land, whether by the construction of buildings or otherwise.

### Specific powers of Trust

- 5.** Without prejudice to the generality of section 3(1), the Trust shall have power—
- (a) to acquire by purchase, lease, demise, gift, exchange or otherwise, and to hold by its corporate name on trust or otherwise any land or building in St.Helena, or any object of art or handicraft;
  - (b) to restore, maintain, and improve any such land, building, object of art or handicraft;
  - (c) to lease, sell, or otherwise deal with any such land, building, or object of art or handicraft;
  - (d) to invest funds in any land or securities in St.Helena or in securities out of St.Helena;
  - (e) to form, or take part in forming, companies;
  - (f) to manage, maintain, improve, lease, sell or otherwise deal with any land developed, or any building constructed, by the Trust in pursuance of object (g) in section 4;
  - (g) to act alone, or with other persons either in partnership or otherwise.

### Governor may grant property to the Trust

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

Provided that no land may be granted to the Trust under this section except upon the condition that it be declared inalienable under section 7.

### **Certain property of Trust to be inalienable**

7. (1) The Trust Council may by resolution determine that any land or building vested in the Trust or such portion thereof as may be specified in such resolution is proper to be held for the benefit of St.Helena and such land or building shall thereupon be so held by the Trust and shall be inalienable.

(2) Any property acquired by the Trust pursuant to section 6 shall be declared inalienable by the Trust Council.

(3) Notwithstanding anything in subsection (1), the Trust may grant any easement or right (not including a right to the exclusive possession of the surface) over or in respect of any property made inalienable by that subsection.

### **Power to enter into agreements restricting development of land**

8. (1) Where any person is willing to agree with the Trust that any land shall, so far as his interest in the land enables him to bind it, be made subject to any restriction on its development, being a restriction in conformity with the principal objects of the Trust, the Trust may, subject to the approval of the Governor in Council, enter into an agreement with that person ("the donor") under this section.

(2) Every agreement under this section shall be executed by the Trust and the donor and shall be recorded in a register to be maintained by the Registrar of Lands for the purpose and shall be open to inspection by the public at all reasonable times.

(3) Notwithstanding—

(a) the absence of valuable consideration for the making of an agreement under this section affecting a donor's interest in land; or

(b) any other rule of law or equity to the contrary,

the Trust shall have power to enforce the agreement against the donor or any person succeeding to that interest.

(4)<sup>2</sup> ...

(5)<sup>3</sup> ...

### **Membership of Trust**

9. (1) The members of the Trust shall be divided into—

(a) ordinary subscribing members who shall subscribe annually to the Trust such sum as the Trust Council may from time to time prescribe;

(b) life members who shall pay such lump sum to the Trust as the Trust Council may from time to time prescribe;

(c) society members who shall be clubs, societies or other associations of persons who shall pay such annual subscription as the Trust Council may specify in relation to that club, society or association of persons;

(d) honorary members who shall be persons who shall give to the Trust any property which, in the opinion of the Trust Council, is proper to be preserved for the benefit of St.Helena or who shall give to the Trust such sum or other property or services as shall appear to the Trust Council to entitle such persons to be distinguished as honorary members;

<sup>2</sup> Section 8(4) repealed by Ord. 2 of 2008

<sup>3</sup> Section 8(5) repealed by Ord. 2 of 2008

(e) junior members who shall be persons under the age of sixteen years who shall subscribe annually to the Trust such sum as the Trust Council may from time to time prescribe.

(2) Every ordinary subscribing member, every society member and every junior member shall be liable for the amount of his subscription and the subscription shall be payable on the first day of April of each year:

Provided that any such member may at any time prior to the thirty-first day of March in any year resign his membership and cease to be a member by sending his resignation in writing to the Secretary of the Trust and thereupon that person shall cease to be liable for the amount of the subscription on the ensuing thirty-first day of March and thereafter.

### **Liabilities of members of Trust**

10. No member of the Trust shall be liable for or to contribute towards the payment of the debts and liabilities of the Trust beyond the amount of the annual subscription of such member or of any contribution agreed to be given and remaining unpaid.

### **General meetings of Trust**

11. (1) A general meeting of the members of the Trust (hereinafter referred to as the annual general meeting) shall be held once a year in each year.

(2) All general meetings, other than the annual general meeting, shall be called special meetings.

(3) The annual general meeting and special meetings shall be convened in accordance with regulations made under this Ordinance.

### **Trust Council**

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

(2) The Trust Council shall consist of the following members—

(a) the president, vice-president, secretary, treasurer and two at-large members, who shall be elected at the annual general meeting for such term as shall be established by regulations made under section 14;

(b) two members appointed by the Governor in Council from persons who are members of the Trust;

(c) the chairman or designated representative of each of the bodies set out in subsection (3);

(d) such other persons as the Trust Council may co-opt as members.

(3) The following bodies shall each be entitled to appoint one member of the Council—

The St.Helena Heritage Society

The St.Helena Nature Conservation Group

The St.Helena Tourism Association

The St.Helena Diving Club

The St.Helena Art and Crafts Association

The St.Helena Farmers' Association.

(4) The Trust Council shall be deemed fully constituted and all acts and proceedings of the Council shall be deemed valid in all respects if and so long as six members have been

appointed or elected to the Trust Council and shall not be deemed invalid by reason of a vacancy in the membership thereof or by reason of a defect in the appointment or election of a member thereto.

(5) If any elected member of the Trust Council dies or resigns the Trust Council may appoint in his place another member of the Trust to be a member of the Trust Council and any member so appointed shall continue in office until the next annual general meeting after his appointment.

(6) No member of the Trust Council shall be entitled to any remuneration for his services as a member thereof.

(7) Only members specified in section 9(1)(a), (b) and (d) shall qualify for election or appointment to the Trust Council.

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

- (a) as often as he considers it necessary, but in any case at least once in a period of 6 calendar months; and
- (b) at the written request of a majority of the Trust Council made at least 14 days before the date proposed by such members for a meeting.

(9) Subject to any regulations made under this Ordinance, the Trust Council may regulate the proceedings of its meetings as it thinks fit, and shall keep minutes of those proceedings.

### **Powers of Trust Council**

13. (1) The Trust Council shall have the charge and management of the business of the Trust and may exercise all the powers of the Trust other than those exercisable by the Trust in general meeting and no regulation made or resolution passed by the Trust in general meeting shall invalidate any prior act of the Trust Council which would have been valid if such regulation or resolution had not been made or passed.

(2) The Trust Council may exercise its powers through any committee, including an executive committee, of the Trust Council as the Trust Council may prescribe.

(3) The Trust Council may appoint such officers and servants as they may from time to time consider desirable and fix their salaries and conditions of service.

### **Governor in Council may make regulations**

14. (1) The Governor in Council may make regulations—

- (a) as to the procedure of the Trust Council (including the quorum to be required at meetings);
- (b) as to the conduct of the business and affairs of the Trust;
- (c) for regulating the conduct of persons on or about the property of the Trust for the protection of that property, the prevention of nuisances and preservation of order upon any such property;
- (d) for authorising an officer of the Trust after due warning to remove or exclude from any property of the Trust any person who in the opinion of that officer has caused or is likely to cause injury or damage to that property or whose presence or continued presence is likely to be detrimental to the preservation of order on the property of the Trust;
- (e) for prohibiting the hindrance or obstruction of an officer of the Trust in the exercise of his or her powers or duties under this Ordinance or under any regulations made hereunder;
- (f) generally for the better carrying out of the provisions of this Ordinance.

(2) Regulations made under this section may provide that any contravention of the provisions of the regulations shall be an offence against the regulations and any such offence shall be punishable on summary conviction by a fine not exceeding one thousand pounds.

### **Financial provisions**

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

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

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

(3) The Trust shall keep proper accounts of its receipts, payments, assets and liabilities, in a form to be approved by the Financial Secretary.

(4) The accounts of the Trust shall be audited annually by the Chief Auditor of the St.Helena Government and the members, employees and officers of the Trust or Trust Council shall grant to the Chief Auditor access to all the books, documents, cash and securities of the Trust and, on request, all such information as shall be within their knowledge in relation to the operation of the Trust.

(5) A copy of the audit report of the Chief Auditor shall be laid before the Legislative Council simultaneously with the annual report referred to in section 18.

### **Tax exemptions**

**16.** The Trust shall be exempt from all present and future assessments, rates and taxes and from any tax payable under any statutory provision in respect of any property owned by or vested in the Trust.

### **Exemption from stamp duty**

**17.** Any transaction involving the Trust shall be exempt from the payment of any stamp duty under the Stamp Duties Ordinance, 1987, for which, but for this section, stamp duty would be payable.

### **Annual report of Trust**

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

(2) The Trust Council shall forward copies of the report referred to in subsection (1) to the Governor and the Financial Secretary and the Financial Secretary shall, after receiving the annual report, lay it before the Legislative Council.



## NATIONAL TRUST REGULATIONS – SECTION 14

*(Legal Notice 6 of 2002)***Short title**

1. These Regulations may be cited as the St.Helena National Trust Regulations.

**Interpretation**

2. (1) In these Regulations—

“**Council**” means the Trust Council established under section 12 of the Ordinance;

“**notice**” means any notice required or permitted under these regulations, and shall be good and sufficient if published in an issue of a local newspaper;

“**Officers**” means president, vice-president, secretary and treasurer;

“**Ordinance**” means the St.Helena National Trust Ordinance;

“**resolution**” means any formal decision of the Council, proposed and approved by a majority of Council Members eligible to vote at a meeting of the Council;

“**Trust agent**” means any officer, Council member or other person, whether volunteer or employed, who is appointed by the Council to act for the Trust in the management of Trust affairs or the management of Trust properties.

(2) Expressions not otherwise defined in these Regulations have the same meaning as in the Ordinance.

**Logo of Trust**

3. The Logo of the Trust shall be as shown in the Schedule to these Regulations.

**Membership**

4. (1) The Council shall, in accordance with section 9(1)(c) of the Ordinance, establish classes of membership in the Trust for—

(a) clubs;

(b) societies; or

(c) other associations of persons, to be known generally as Corporate Members;

and the subscription to be paid for each class of member.

(2) Any person paying any subscription for any class of member prescribed under subregulation (1) shall be taken to be applying for membership of the class appropriate to that subscription.

(3) Payment of a subscription secures membership in the appropriate class for a period of 12 months expiring on the anniversary of the payment.

(4) A member who fails to pay his or her subscription within 3 months after becoming a member of the Trust or within 3 months after the date set out in section 9(2) of the Ordinance shall cease to be a member of the Trust.

(5) The Council shall cause to be kept a register of members into which shall be entered:

(a) The name and address of each member;

(b) The class of membership of each member;

(c) The date on which a member became a member;

(d) The date on which a member ceases to be a member.

(6) The contents of the register of members shall be prima facie evidence of any matter by these regulations directed or authorised to be entered therein.

### Trust Council

5. (1) The four officers and the two at-large members shall be elected by ballot at the Annual General Meeting.

(2) Subject to the provision of regulation 5(3), officers shall serve a term of two years each, and except for the president shall be eligible for re-election. The president may not serve more than two consecutive terms of two years each but shall be eligible for re-election after a period of twelve months out of office. Elected council members shall serve a term of one year but shall be eligible for re-election.

(3) A serving officer or elected member of Council shall not be eligible for re-election if he has failed to attend 50% of the regular meetings of the Council during the previous year unless the Council by resolution and for good cause waives this disqualification.

(4) Not less than six weeks prior to the Annual General Meeting, the Council shall appoint a Nominating Committee of five Members in good standing of the Trust, at least two of whom shall not be Members of the Council, but with a Member of the Council as president.

(5) The Nominating Committee shall submit to the Council a list of nominees for the Officers and elected Council Members. The nominees shall be Members in good standing of the Trust who have indicated their willingness to stand for election. The Nominating Committee shall nominate one person for each position.

(6) The Council shall review the list of nominees submitted by the Nominating Committee, and, after making any changes the Council sees fit, shall adopt it as the Council slate of nominees. Not less than two weeks before the Annual General Meeting, the Council shall publish the list of nominees by inclusion in the notice for the Annual General Meeting.

(7) Additional nominations may be made in writing signed by the proposer and a seconder (each being a Member in good standing of the Trust) and by the person nominated, to be received at the office of the Trust not later than the close of business two days before the date of the Annual General Meeting. Such nomination shall designate the office to which the person is being nominated.

(8) Elections shall be conducted according to the following rules—

- (a) the Council shall appoint a Member of the Trust who is not a Member of the Council, or a Member of the Council who is not standing for re-election, to conduct the election;
- (b) elections shall be conducted by secret ballot at the annual general meeting, with the candidate who receives the plurality of votes being elected for each position;
- (c) a proxy vote shall be valid if it is given under the signature of the absent Member to a Member attending the annual general meeting and is delivered before the commencement of the election to the person conducting the election;
- (d) if only one nominee is standing for election to any office, he or she shall be deemed to have been elected to that office;

(9) Officers and elected Members shall take office at the first Council meeting held after the Annual General Meeting at which they were elected.

(10) If any Member of the Council misses three consecutive meetings, the Council may resolve on the motion of the president to declare that member's office to be vacant.

(11) A vacancy arising under subregulation (10) or through the death, resignation or absence from the Island for more than six months of a member, or for any other reason, may be filled by the Council co-opting a member of the Trust until the next annual general meeting.

### **Council meetings**

6. (1) Not less than seven days' notice shall be given to each member of the Council by the secretary.

(2) The secretary shall summon a meeting of the Council within 14 days of the receipt by the secretary of a request made pursuant to section 12(7)(b) of the Ordinance.

(3) The secretary shall keep minutes for each meeting that shall be reviewed by members of the Council at the next meeting and, when approved and signed by the president, shall constitute proof of action taken at the meeting.

(4) The quorum of a meeting of the Council shall be a majority of the members present on the Island at the time.

(5) The vice-president, failing whom a member elected by the Council, shall preside at meetings of the Council in the absence of the president.

(6) Any question arising at a meeting of the Council shall be decided by a majority of the members present and voting and, in the event of an equality of votes, the president or member presiding at the meeting shall have a casting vote, as well as his original vote.

### **Annual and special general meetings**

7. (1) The secretary shall mail to each Member of the Trust written notice of the date, time, place and agenda of every annual and special general meeting of the Trust. Such notice shall be mailed no less than fourteen days prior to the date of the meeting.

(2) Fifteen or more members may sign and submit to the president a petition calling for a special general meeting and setting out the business to be discussed, and the president shall, within 21 days of receiving the petition, summon a special general meeting.

(3) At all general meetings, every individual member aged 18 or older who is present shall be entitled to vote on any matter, and a majority of such members present shall decide all issues, unless a greater majority is required by the Ordinance or by any other law. The president shall have a casting vote as well as his original vote.

(4) A corporate member shall, by notice in writing delivered to the secretary, nominate the person who shall vote or stand for election on its behalf at any general meeting.

(5) Subject to the provisions of regulation 5(8) at any annual general meeting or any special meeting of the Trust, a resolution of the meeting shall be decided on show of hands unless a poll is demanded by five or more members present at any meeting.

(6) Unless a poll is so demanded, a declaration by the president that resolution has, on the show of hands, been carried or not carried, shall be conclusive evidence of the fact without proof of the number of votes recorded in favour or against such resolution. A demand for a poll may be withdrawn before taken.

(7) If a poll is demanded, it shall be taken in such manner as the president thinks fit and the poll shall be deemed to be a resolution of the meeting at which such poll was demanded.

(8) On a show of hands or a poll, each member shall have one vote which may be given either in person or by proxy. In the case of equality of votes, the president shall be entitled to a casting vote in addition to his original vote.

(9) An instrument appointing a proxy shall be in writing under the hand of the appointor to a member attending the meeting for which the proxy is given and shall be delivered before the commencement of such meeting.

(10) The president shall preside at all general meetings and, in his or her absence, the vice-president shall act as president. In the absence of both the president and the vice-

president, the members present at the meeting may appoint any member of the Council to act as president.

(11) In addition to any other business to be conducted at the annual general meeting, the president or the nominee of the president shall present the annual report for the previous year, containing an account of the activities of the Trust during the year, an audited financial report, and goals for the ensuing year.

(12) A quorum at a general meeting shall consist of 10% of the active members or twelve people, whichever is fewer.

### **Trust Committees**

8. (1) The Council may appoint an Executive Committee to which it may entrust the day-to-day business of the Trust, to be chaired by the president of the Council, and including such Members of Council and persons employed or co-opted by the Trust as the Council may decide;

Provided that any significant business conducted by the Executive Committee shall be reported to the next meeting of the Council.

(2) The Council may appoint such other committees, as it may from time to time find necessary.

(3) For all Trust committees, the following rules shall apply—

(a) The Council may appoint a chairman for any committee it creates, but if it does not make such an appointment, the members of the committee shall choose their chairman from among their number.

(b) Each Trust committee shall appoint a secretary, who shall be responsible for maintaining minutes of the Committee's meetings. Such minutes, once approved by the committee, shall be copied to the Council secretary.

(c) The provisions of regulation 7, with appropriate modifications, shall apply to all Trust committees.

### **National Heritage Register**

9. (1) The Trust shall establish and maintain a National Heritage Register of natural, cultural and historical resources and property that the Council determines are of national significance and worthy of preservation.

(2) The Council shall, from time to time, fix criteria for the inclusion of any cultural, historical or natural resource or property in the Heritage Register.

(3) Any individual may recommend to the Council any resource or property for inclusion in the Heritage Register.

(4) The Council shall review any recommendations received under subregulation (3) and, after consultation with the owners of the resources or properties concerned, if any, shall resolve whether to include the resources or properties in the Heritage Register.

(5) The Council may categorise resources or properties included in the Heritage Register according to the importance of their preservation.

(6) The Trust shall offer whatever help towards preserving resources or properties included in the Heritage Register as it considers appropriate and feasible, and in so doing shall seek the co-operation of the owner concerned.

## Financial regulation and review

**10. (1)** The Council shall open and operate a principle account with a bank under the name of the trust.

**(2)** The Council shall nominate such members of Council and staff to be signatories in respect of the Trust's bank account as may from time to time be appropriate and convenient, and all cheques drawn on such account shall require to be signed by at least two signatories.

**(3)** In addition to the Trust's principal account the Council may authorize—

- (a)** the opening and operation of separate accounts for special purposes;
- (b)** the establishment of a reserve account to which it may appropriate such sums as it may agree from time to time for the purpose of funding any contingent or non-recurrent expenditure.

**(4)** The books of the Trust shall be closed on the 31<sup>st</sup> March each year, and shall be available for inspection by any member of the Council.

**(5)** The Council may, from time to time, appoint a financial review committee consisting of—

- (a)** the treasurer as chairman;
- (b)** up to four other members of the Council; and
- (c)** such other persons co-opted to the committee by the Council whose expertise may be useful to the committee, but who may not vote on any matter before it.

**(6)** The functions of the financial review committee shall be to consider matters referred to it by the Council which, in the opinion of the Council, may have potentially significant economic implications for the Trust.

## Trust properties

**11. (1)** Before the Trust acquires any property or interest in any property by whatever means, the Council shall consider the immediate and long-term implications of such acquisition.

**(2)** Among the matters required to be considered by the Council before any acquisition are the following—

- (a)** the report of the Financial Review Committee, if any;
- (b)** the overall finances of the Trust;
- (c)** the priorities for allocation of Trust resources;
- (d)** any proposed endowment or other arrangement for the maintenance of the property in question; and
- (e)** any other relevant information.

**(3)** For each property owned by the Trust the Council shall put in place an Operations and Management Plan that establishes among other things—

- (a)** hours of operation;
- (b)** entry fees, if any;
- (c)** designation of, and an explanation for, those areas which are to be open to the public and those areas which are to be closed; and
- (d)** any other rules necessary to be made for the management of each property.

## Appointment and powers of employees and agents

**12. (1)** The Council may appoint such employees and agents as it deems necessary for the management of the affairs of the Trust and the management of Trust properties.

(2) The Council shall, in making such appointments, fix the duties and responsibilities, remuneration, if any, and reporting relationship for the employees and agents so appointed.

(3) All employees and agents of the Trust shall have the power to eject from Trust properties any person not in compliance with the rules regarding the property.

**SCHEDULE**  
**LOGO OF THE NATIONAL TRUST**

