

# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5121 GIBRALTAR Thursday 18th January 2024

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B. 2/24

## GIBRALTAR CULTURE BILL 2024

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# THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5121 GIBRALTAR Thursday 18th January 2024

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B. 2/24

## BILL

FOR

AN ACT to make provision for the management, enhancement and enjoyment of culture in Gibraltar, of the art collection belonging to His Majesty's Government of Gibraltar, for the preservation of buildings and premises used for cultural purposes, to establish the Gibraltar Arts Advisory Council, to provide for the Gibraltar Public Lending Library, and other cultural connected matters.

**ENACTED** by the Legislature of Gibraltar.

### PART I PRELIMINARY

#### **Title.**

1. This Act may be cited as the Gibraltar Culture Act 2024.

#### **Commencement.**

2. This Act comes into operation on the day appointed by the Minister by notice in the Gazette, and different days may be appointed for different provisions.

#### **Interpretation.**

3. In this Act—

“Arts Council” means the Gibraltar Arts Advisory Council established under section 10;

“Chief Culture Officer” means the person appointed under section 6(1);

“CGC” means the Cultural Grants Committee established under section 13;

“Collection” means the art collection in the possession of the Government, and shall include moveable artworks, historical artworks, artworks of cultural interest and any building used for culture which is from time to time vested in Government, or in the Crown in the right of the Government;

“Cultural Facilities” means those buildings or any sites which are of cultural value and interest or which may be used for cultural purposes which are from time to time designated by the Minister by publication of a notice in the Gazette;

“Curator” shall have the meaning given to that term in section 16;

“Garrison Library” means that library operated from the Garrison Library Building, within the meaning given in the Gibraltar Garrison Library Trust Act 2011;

“Heritage Artwork” means –

- (a) any artwork whether moveable or immovable, which is a work of painting, sculpture, installation, videography, photography or any form of art or craftsmanship;
- (b) any historical artwork which has technical and cultural heritage value or interest; and
- (c) any artwork declared by the Minister to be an artwork of cultural and heritage value and of an interest for the purposes of culture in Gibraltar;

in each case, which has a connection to Gibraltar, but excluding any item which constitutes an antiquity or object of interest within the meaning of the Heritage and Antiquities Act 2018;

“ISBN” means the International Standard Book Number as defined by the ISBN Manual Guidelines issued by the International ISBN Agency;

“legal deposit library” means the Public Library and in the case of work containing historical or military content, also the Garrison Library;

“Minister” means the Minister with responsibility for Culture;

“publication”, in relation to a work means the issue of copies of the work to the public, and related expressions are to be interpreted accordingly;

“Public Library” has the meaning given in section 18;

“Register” has the meaning given in section 9(1);

“reader” has the meaning given in section 23(7);

“relevant person” has the meaning given in section 23(7);

“work” has the meaning given in section 22(2).

**PART II  
ADMINISTRATION OF CULTURE**

**The Government's duties in relation to culture.**

4.(1) The Government, or such person, agency or entity to whom the Government may delegate its functions under section 7 shall be charged with control and superintendence of matters relating to culture in Gibraltar.

(2) It shall be the duty of the Government to —

- (a) organise and coordinate cultural events in Gibraltar;
- (b) manage a cultural development and education unit of the Government;
- (c) manage the art collection in the possession of the Government;
- (d) manage the Cultural Facilities;
- (e) administer and manage any committees established by the Government for any purpose connected or incidental to any of the duties under this Act;
- (f) to keep the Register and manage applications from persons to form part of the Register;
- (g) identify, support and develop quality and excellence in the arts and culture;
- (h) promote understanding, appreciation and enjoyment of the arts and culture;
- (i) encourage as many people as possible to access and participate in the arts and culture;
- (j) realise, as far as reasonably practicable to do so, the value and benefits of the arts and culture;
- (k) encourage and support artistic and other creative endeavours which contribute to an understanding of Gibraltar's culture in its broad sense as a way of life;
- (l) promote and support industries and other commercial activity the primary focus of which is the application of creative skills; and
- (m) carry out any other function conferred on the Government or the Minister in pursuance of the provisions of this Act.

**General principles of cultural policy.**

5. In the exercise of all the powers and duties conferred and imposed by this Act, the Government shall, so far as is compatible with the promotion of culture and the avoidance of unreasonable public expenditure, have regard to the following general principles —

- (a) any major issues of policy affecting culture and the arts in Gibraltar;
- (b) the need to use resources in the most efficient and effective way;
- (c) the need to increase the diversity of the people who access and participate in the arts and culture;
- (d) progressive development and improvement of facilities and opportunities to participate in and enjoy the arts and culture in Gibraltar; and
- (e) the promotion of the culture of Gibraltar internationally.

**Chief Culture Officer.**

6.(1) The Minister may, by notice in the Gazette, appoint a person as Chief Culture Officer, who shall be responsible to the Minister for the discharge of their duties and functions under this Act.

(2) An appointment under subsection (1) shall be for such a period, and subject to such terms and conditions, as may be specified in the instrument of appointment.

(3) The Chief Culture Officer, subject to any general or special directions of the Government, shall carry out the functions imposed on them by this Act, as well as any of the Government's functions under section 4 which are delegated to the Chief Culture Officer.

(4) The Chief Culture Officer may do anything that appears to them to be incidental or conducive to the carrying out of their functions.

**Powers and delegation of duties.**

7.(1) In accordance with the general principles set out in section 5 the Government may—

- (a) improve, refurbish, maintain or assist in maintaining such Cultural Facilities as are within the Government's possession, and otherwise, with the consent of the relevant landowner or tenant (as the case may be);
- (b) erect, equip and maintain any facilities and premises used for cultural purposes;
- (c) contract with any person for the supply of any goods, services and personnel;

- (d) compile, prepare, print, issue, circulate, and distribute, such papers, leaflets, magazines, periodical books, and other literary matter as may be conducive to the duties of the Government under this Act.

(2) The Government may delegate in writing, to such an extent, for such a period and on such terms and conditions as it shall generally or specially authorise, the discharge of any of its duties under this Act to the Chief Culture Officer, or to any suitably qualified and competent person, agency or entity, or to both.

(3) The delegation by the Government of any of its duties under this Act shall not affect the exercise by the Government of such duties.

### **Liability.**

8. Neither the Government, nor any person to whom the Government's duties have been delegated (including, any officer or employee of such person), shall be liable in damages for anything done or omitted in the discharge or purported discharge of any powers or duties conferred by this Act unless the act or omission is shown to have been in bad faith.

### **Register of Cultural Organisations.**

9.(1) The Government shall keep a Register of Cultural Organisations ("the Register") in such parts and in such form as may be prescribed in regulations made under subsection (3), in which shall be entered the following details —

- (a) the name, address, and date of registration of all registrants;
- (b) the nature of the cultural activity or cultural activities carried out by the registrant; and
- (c) such other particulars as may be prescribed.

(2) A person may apply to the Government to be entered on the Register, and if accepted for registration, shall be entered onto the Register for the period of two years, after which an application for re-registration must be submitted.

(3) The Minister may by regulations make provision generally for —

- (a) which organisations, clubs, associations or persons shall qualify as cultural organisations;
- (b) applications and any conditions to be imposed on organisations, clubs, associations or persons applying to be entered onto the Register;
- (c) the purposes for which the Register will be used;
- (d) any forms to be used for the purposes of applications to be entered onto the Register;

- (e) any fees to be payable in respect of anything to be done under this Act; and
- (f) such other information which the Minister sees fit.

### **PART III GIBRALTAR ARTS ADVISORY COUNCIL**

#### **Gibraltar Arts Advisory Council.**

10.(1) There shall be a Gibraltar Arts Advisory Council (“the Arts Council”).

(2) The provisions of Schedule 1 shall have effect with respect to the membership, constitution and proceedings of the Arts Council.

(3) The Minister, may by regulations published in the Gazette, amend and vary the provisions contained in Schedule 1.

#### **Functions of the Arts Council.**

11. The functions of the Arts Council are to—

- (a) support and advise the Government on matters relating to culture and the arts;
- (b) support the fostering of interest in attendance at, and participation in cultural events and the arts; and
- (c) provide advice to any person on any matter relating to culture and the arts, including any matter as may be requested by the Minister.

#### **Advisory Committees.**

12.(1) The Minister may after consultation with the Arts Council, appoint committees which shall advise the Arts Council on such matters relating to culture as may be specified in the instrument of appointment.

(2) Members of any advisory committee including a chairperson for each advisory committee, shall be appointed by the Minister, who shall have regard to the desirability of the committee as a whole having knowledge and experience in the specific areas on which the committee is instructed to advise.

(3) The members of any advisory committee shall be appointed by notice in the Gazette on such terms and for such periods as the Minister may determine and may be re-appointed for such additional period(s) as the Minister may determine.

(4) The Arts Council shall establish terms of reference and rules of procedure for any advisory committee.



**PART IV  
GRANTS**

**Cultural Grants Committee.**

13(1) There shall be a Cultural Grants Committee (“the CGC”).

(2) The provisions of Schedule 2 shall have effect with respect to the constitution and proceedings of the CGC.

(3) The Minister, may by regulations published in the Gazette, amend and vary the provisions contained in Schedule 2.

**Functions of the CGC.**

14.(1) The functions of the CGC are to —

- (a) review and consider all applications for grants made under section 15;
- (b) make recommendations to the Government in relation to the provision of financial assistance and support to cultural organisations and individuals involved in culture; and
- (c) anything incidental to or connected with any of the above-listed functions.

(2) In exercising its functions, the CGC shall take into consideration the following objectives—

- (a) to support and promote the development of culture in Gibraltar and to improve opportunities for competitions, initiatives, events, development and education;
- (b) develop cultural opportunities and improve standards by allowing for competition, exchanges and residencies at an international level which can promote Gibraltar culture internationally;
- (c) develop infrastructure in Gibraltar for culture, including but not limited to education, cultural development projects, development, initiatives and events;
- (d) support initiatives that will provide for the development of performers, artists and writers; and
- (e) improve the standards of resources available in Gibraltar to ensure that those engaged in all forms of culture in Gibraltar have access to adequate facilities.

**Applications for Financial Assistance.**

15.(1) Any person may apply to the CGC for financial assistance for the following —

- (a) the purchase of any equipment or materials;
- (b) cultural development projects;
- (c) printing, publication and launch of a book;
- (d) improvements to facilities;
- (e) professional development of artists, writers or performers; or
- (f) costs of attendance of any course or educational establishment,

provided that, in the opinion of the CGC, the financial assistance would be likely to contribute to the development and promotion of culture in Gibraltar.

(2) The Minister may make regulations for carrying out the provisions of this section, and in particular, without limitation, for—

- (a) prescribing criteria for applicants and requirements for any application for financial assistance;
- (b) prescribing forms to be used for any application for financial assistance;
- (c) fixing fees for any application for financial assistance;
- (d) imposing sanctions, offences or penalties in connection with the improper use of any financial assistance granted under this section.

(3) The CGC shall consider each application on its individual merits, and subject to the provisions of this section, any financial assistance shall be granted at the discretion of the CGC in such sums as shall be determined by the CGC in its discretion.

(4) The CGC may impose such conditions as it sees fit in connection with the granting of any financial assistance, including a requirement for the applicant to produce receipts or other evidence of the application of the funds granted by the GCS.

(5) Any conditions imposed by the CGC shall be communicated in writing to the applicant prior to any payment being made to an applicant.

(6) The CGC may take into consideration any non-compliance with conditions imposed under this section when determining any future applications from the same applicant.

(7) Any grants of financial assistance awarded by the CGC shall be funded by the Government.

**PART V**  
**THE GOVERNMENT ART COLLECTION**

**The Government Art Collection Curator.**

16.(1) The Minister shall, by notice in the Gazette, appoint a person to hold the office of the Government Art Collection Curator (“the Curator”) who shall be responsible for the Collection as custodian.

(2) The Curator shall perform the following functions—

- (a) to promote and undertake the identification, preservation, exhibition, appreciation and enjoyment of Heritage Artworks;
- (b) to promote the Collection through Gibraltar’s national and modern art galleries (where applicable);
- (c) to promote and undertake research of Gibraltar’s art doyens;
- (d) to provide educational and development platforms to enhance a wider understanding of cultural heritage, particularly amongst children and young people; and
- (e) to undertake such other functions as are conferred on it by this Act.

(3) In discharging their functions, the Curator may—

- (a) purchase any heritage artworks, which the Curator considers would add value and interest to the Collection;
- (b) accept by way of gift, loan or donation—
  - (i) any heritage artwork that may add value to the Collection;
  - (ii) any work which has a technical and cultural heritage value or interest;
  - (iii) any other items that may be suitable for exhibition;
- (c) lend any heritage artworks for display in public offices or elsewhere;
- (d) undertake any investigations to recover any heritage works or objects that may be of interest to culture in Gibraltar.

**Vesting of property in the Collection.**

17.(1) All works, objects or other property acquired by the Curator under this Part shall once acquired, form part of the Collection.

(2) The Collection shall be vested in the Crown in right of the Government, subject to the terms on which they were acquired or held and subject to the terms of any trust.

(3) The Collection shall be applied for the benefit and enjoyment of the public or otherwise employed in the public interest.

## **PART VI THE JOHN MACKINTOSH HALL PUBLIC LIBRARY**

### **The John Mackintosh Hall Public Library.**

18.(1) The Minister, after consulting with the Chief Culture Officer (if appointed), shall appoint a Library Manager who shall be responsible for the John Mackintosh Hall Public Library (“the Public Library”).

(2) The functions of the Public Library are —

- (a) to provide benefit, use and enjoyment for the general public in Gibraltar;
- (b) to be a legal deposit library, for the deposit of published works in a printed medium under section 22;
- (c) to act as the ISBN agency for Gibraltar;
- (d) to establish and maintain a database of all books or printed publications authored or published in Gibraltar which contain an ISBN number issued in Gibraltar; and
- (e) such other functions as the Minister shall from time to time determine.

### **Functions of the Library Manager.**

19.(1) The Library Manager shall —

- (a) preserve, maintain and expand the collection of books in the Public Library;
- (b) preserve, manage and maintain the Public Library;
- (c) ensure the venue is accessible to the general public as a reading and reference library, as a lending library, as a music library and for such other related purposes;
- (d) encourage and promote literature;
- (e) promote reading, research and all forms of literary activity and culture;
- (f) provide educational and development platforms designed in particular for children and young people;

(g) undertake such other functions as are conferred by this Act.

(2) No fee may be charged for use of the Public Library.

(3) The Public Library may not be used other than as a library or for any related activities, including those activities listed in section 19(1)(c).

**Powers of the Library Manager.**

20.(1) In discharging their functions, the Library Manager may—

- (a) purchase books, music records, journals, prints and any other printed or audio material;
- (b) accept by way of gift, loan or donation, any literature or music records;
- (c) accept any manuscripts, magazines, pamphlets, and other documents that relate to Gibraltar and are suitable for the Public Library, its reference library or for cultural archives;
- (d) accept other items that are suitable for study and research;
- (e) establish terms, conditions and rules for access to the Public Library and the use of its contents;
- (f) loan any article;
- (g) undertake any investigations or research that may be of interest for culture in Gibraltar;
- (h) dispose of, relocate or gift books or collections, if the Library Manager considers, having regard to the needs of the Public Library that they are obsolete, damaged or more appropriately held in another institution or educational establishment.

**Vesting of property of the Government.**

21.(1) All property, whether acquired by, donated to or held by the Library Manager in accordance with this Part shall be vested in the Crown in right of the Government, subject to the terms on which that property was acquired or held and subject to the terms of any trust.

(2) The property held in the Public Library shall be applied for the benefit and enjoyment of the public or otherwise employed in the public interest.

**Legal deposit.**

22.(1) A person who publishes in print in Gibraltar a work, must, within 30 days of publication, at their own expense, deliver a copy of it to the Public Library, and in the case of a work containing historical or military content, a second copy must be delivered to the Garrison Library.

(2) For the purposes of this section, a “work” means —

- (a) a book (including a pamphlet, magazine or newspaper);
- (b) a sheet of letterpress or music;
- (c) a map, plan, chart or table; and
- (d) a part of any such work.

(3) This section does not apply to a work which is substantially the same as one already published in print.

(4) The Minister may by regulations make provision as to circumstances in which works are or are not to be regarded for the purposes of this section as substantially the same.

(5) If a person fails to comply with subsection (1), any legal deposit library may recover the cost of making good that obligation from the publisher as a civil debt.

(6) The Minister may make regulations applying subsection (1) to works published in media other than print, including without limitation, to provide for —

- (a) the time at which or the circumstances in which the legal deposit library becomes or ceases to be entitled to delivery under subsection (1);
- (b) requiring the person mentioned in subsection (1) to deliver, with the copy of the work, a copy of any computer program and any information necessary in order to access the work, and a copy of any manual and other material that accompanies the work and is made available to the public;
- (c) require delivery within a time prescribed by reference to an event other than publication;
- (d) where a work is produced for publication in copies of differing quality, specify the quality of copies to be delivered;
- (e) where a work is published or made available to the public in different formats, provide for the format in which any copy is to be delivered to be determined in accordance with requirements specified (generally or in a particular case) by the legal deposit library;

- (f) make provision as to the circumstances in which works published online are or are not to be treated as published in Gibraltar; and
- (g) amend the Intellectual Property (Copyright and Related Rights) Act 2005 in order to specify acts permitted in relation to copyright works by the legal deposit library.

**Exemption from liability.**

23.(1) The delivery by a person, pursuant to section 22(1), of a copy of a work is to be taken—

- (a) not to breach any contract relating to any part of the work to which that person is a party; and
- (b) not to infringe copyright, publication right or database right in relation to any part of the work or any patent.

(2) A legal deposit library, or a person acting on its behalf, is not liable in damages for defamation arising out of the doing by a relevant person of any of the following activities in relation to a copy of a work delivered under section 22(1) —

- (a) using the material (whether or not such use necessarily involves the making of a temporary copy of it);
- (b) copying the material (other than by making a temporary copy where this is necessary for the purpose of using the material);
- (c) lending the material to a third party (other than lending by a legal deposit library to a reader for use by the reader on library premises controlled by that library);
- (d) transferring the material to a third party; or
- (e) disposing of the material.

(3) Subsection (2) does not apply to the liability of a legal deposit library where—

- (a) it knows, or it knows of facts or circumstances from which it ought to know, that the copy contains a defamatory statement; and
- (b) it has had a reasonable opportunity since obtaining that knowledge to prevent the doing of the activity in relation to the copy.

(4) Where, pursuant to section 22(1), a person (in this section, “the publisher”) has delivered a copy of a work to a legal deposit library, the publisher is not liable in damages for defamation arising out of the doing by a relevant person of an activity listed in subsection (2) in relation to the copy.

(5) Subsection (4) does not apply where—

- (a) the publisher knows, or the publisher knows of facts or circumstances from which it ought to know, that the copy contains a defamatory statement; and
- (b) it has had a reasonable opportunity since obtaining that knowledge to inform the library of the matter, facts or circumstances known to it and has not done so.

(6) Where this subsection applies to a copy of a work—

- (a) no person other than the library is liable in damages for defamation arising out of the doing by a relevant person of an activity listed in subsection (2) in relation to the copy; and
- (b) subsections (4) and (5) apply in relation to the doing of an activity in relation to the copy as they apply in relation to the doing of the activity in relation to a copy of a work delivered under section 22(1).

(7) In this section—

- (a) “relevant person” means a legal deposit library or person acting on its behalf, or a reader;
- (b) “reader” means a person who, for the purposes of research or study and with the permission of a legal deposit library, is on library premises controlled by the legal deposit library.

(8) The Minister may by regulations provide for this section, as it applies in relation to liability in damages for defamation, to apply in relation to liability (including criminal liability) of any description prescribed in the regulations, subject to such modifications as may be prescribed.

(9) Where this section applies to the doing of an activity in relation to a copy of a work it also applies to the doing of the activity in relation to a copy (at any remove) of that copy.

(10) Nothing in this section imposes liability on any person.

## **PART VII MISCELLANEOUS**

### **Regulations.**

24.(1) The Minister may make regulations providing for such other matters as are reasonably necessary or incidental to the due administration of this Act.



(2) Without prejudice to the generality of subsection (1), such regulations may, without limitation, provide for —

- (a) any matter appertaining to the functions, constitution and proceedings of the Arts Council or CGC;
- (b) prescribing the procedure to be followed on any application, consent, grant or decision under this Act, and the forms to be used for the same;
- (c) prescribing fees in respect of any matters under this Act;
- (d) regulating conduct in the Cultural Facilities providing that contravention of any such regulation shall constitute a criminal offence, and providing for a penalty for any such offence.

(3) The Minister may by regulations make provision for the establishment of awards to be granted by the Government to such persons who have made significant contributions to culture in Gibraltar.

(4) Regulations under subsection (3) may include provision —

- (a) for the creation of a committee or council to determine matters relating to the granting of any such award;
- (b) for the functions, constitution and proceedings of any such committee or council;
- (c) for criteria, categories and procedure for the granting of any such award;
- (d) for a fee to be charged for applications or nominations for any such award; and involving such further matters as the Minister considers appropriate.

(5) The Minister may by regulations make provision for the establishment of a committee or council to carry out such functions related to the book industry and literature as may be prescribed, and in particular —

- (a) may make provision for the constitution and proceedings of any such committee or council;
- (b) may require the committee or council to produce such plans, reports, or advice as may be prescribed.

### **Repeals and revocations.**

25. Section 52 of the Heritage and Antiquities Act 2018 is repealed.

**Transitional provision.**

26. The coming into force of this Act does not affect any right that has accrued to or any power that has been delegated to any person before the date on which this Acts comes into force.

**SCHEDULE 1**

**Section 10**

**Gibraltar Arts Advisory Council**

**Membership of the Arts Council.**

1.(1) The Arts Council shall consist of the following members—

- (a) the Minister, who shall be the chairperson;
- (b) the Chief Culture Officer;
- (c) an individual employed by the Department of Education, appointed by the Minister;
- (d) such individuals with professional experience in culture, as may be appointed by the Minister.

(2) The Minister may appoint an alternate member to substitute for each member.

(3) The members of the Arts Council shall be appointed by publication of notice in the Gazette.

(4) The members of the Arts Council shall hold office for three years and shall be eligible for re-appointment.

(5) The Minister may terminate the appointment of any member of the Arts Council.

(6) The Arts Council may appoint a secretary.

**Proceedings.**

2.(1) The quorum of all meetings of the Arts Council is four members, and the chairperson shall preside at all meetings of the Arts Council.

(2) Decisions at a meeting of the Arts Council shall be decided by a majority of the members present and voting at the meeting, and in the case of an equality of votes, the chairperson shall have a second or casting vote.

(3) Subject to the provisions of this Act, the Arts Council may regulate its own procedure.

(4) If in the opinion of the chairperson, the business before the Arts Council makes it desirable to do so, any person may be invited to attend and make representations at a meeting of the Council but shall not have a vote.

(5) The Arts Council shall keep minutes of its proceedings.

**SCHEDULE 2**

**Section 13**

**Cultural Grants Committee**

**Membership of the CGC.**

1.(1) The CGC shall consist of the Minister, who shall be the Chairperson, the Chief Culture Officer and such other members as may be appointed by the Minister by notice in the Gazette.

(2) The Minister may appoint an alternate member to substitute for each member.

(3) The members of the CGC shall be appointed upon such terms as may be determined by the Government, subject to the provisions of this Schedule 2.

(4) The members of the CGC shall hold office for three years and shall be eligible for re-appointment.

(5) The Minister may terminate the appointment of any member of the CGC which it has appointed.

(6) The CGC may appoint a secretary.

**Proceedings.**

2.(1) The quorum of all meetings of the CGC is three members, and the chairperson shall preside at all meetings of the CGC.

(2) Decisions at a meeting of the CGC shall be decided by a majority of the members present and voting at the meeting, and in the case of an equality of votes, the chairperson shall have a second or casting vote.

(3) Subject to the provisions of this Act, the CGC may regulate its own procedure.

(4) If in the opinion of the chairperson, the business before the CGC makes it desirable to do so, any person may be invited to attend and make representations at a meeting of the CGC but shall not have a vote.

(5) The CGC shall keep minutes of its proceedings.

**EXPLANATORY MEMORANDUM**

This Bill makes provision for the management, enhancement and enjoyment of culture in Gibraltar. It also provides for the art collection belonging to the Government and the preservation of buildings and premises used for cultural purposes. It allows for grants and awards relating to culture to be given.

It establishes the Gibraltar Arts Advisory Council and makes provision for the Gibraltar Public Lending Library.

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