



ANALYSIS

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1996, No. 1—*Local*

An Act to amend the law relating to the Otago Museum Trust Board, made necessary by the reform of local government, by altering the constitution of the Board, better defining its functions, and making provision for the continuation of the work of the institution, and for the finances and administration of the Board

[18 June 1996

WHEREAS the Otago Museum is a non-profit-making permanent institution, founded by the people of Otago for the service and development of their community: And whereas the Museum acknowledges a particular responsibility for the natural, cultural, and scientific heritage of the Otago region: And whereas responsibility for the maintenance and development of the said institution should continue to be widely shared:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Otago Museum Trust Board Act 1996.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Board” means the Otago Museum Trust Board continued in existence under section 5 (1) of this Act:

“Contributing authority” means a local authority referred to in the Second Schedule to this Act:

“Museum” means the Otago Museum situated in Dunedin, New Zealand:

“Director” means the Director of the Museum as chief executive officer of the Board appointed under section 9 (1) (a) of this Act.

3. Objectives—The objectives of the Museum shall be—

- (a) To collect, preserve, act as a regional repository for, research, display, and otherwise make available to the people of the present and the future, material and information relating to the natural, cultural, and scientific heritage of the peoples of the world:
- (b) To promote interest and education in the natural, cultural, and scientific heritage of New Zealanders:
- (c) To place particular emphasis on those activities as they relate to the greater Otago region, world history, natural history, and science, and, where appropriate, their relationships in a wider global context.

4. Collection policy—The Museum may acquire or dispose of objects and data in accordance with its policy and recognised Museum practice, taking cognisance of its trusteeship role in the community.

5. Otago Museum Trust Board—(1) There shall continue to be a governing authority of the Museum known as the Otago Museum Trust Board, which shall be the same body corporate as the Otago Museum Trust Board established by section 3 (1) of the Otago Museum Trust Board Act 1955.

(2) The Board shall consist of—

- (a) Four members appointed by the Dunedin City Council:

- (b) One member appointed jointly by the Clutha District Council, the Central Otago District Council, and the Waitaki District Council:
- (c) Two members appointed by the University of Otago:
- (d) One member appointed by the Otago Branch of the Royal Society of New Zealand or its successor body:
- (e) One member appointed by Manawhenua, the procedure for making the appointment to be determined by the parties responsible for such appointment:
- (f) One member appointed by the Association of Friends of the Otago Museum.

(3) The member appointed jointly by the contributing authorities set out in subsection (2)(b) of this section shall be appointed by a procedure determined by the parties making the appointment, but if an agreement cannot be reached, the appointment shall be made in accordance with the formula set out in the First Schedule to this Act.

(4) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

(5) The Board shall be deemed to be a local authority for the purposes of section 6 of the Finance Act (No. 2) 1941 and of the National Provident Fund Restructuring Act 1990.

6. Appointment of members of Board—(1) Within 3 months after the commencement of this Act, and within 3 months after each general election held pursuant to the Local Elections and Polls Act 1976 after the commencement of this Act, those contributing authorities and other bodies referred to in section 5(2) of this Act shall each appoint a person or persons to be members of the Board.

(2) Any person appointed by a contributing authority need not be a member of that authority.

(3) Every member of the Board appointed under this section shall come into office on the day following that on which he or she is appointed.

7. Reappointment and resignation of Board members—(1) Any member of the Board may from time to time be reappointed, or may at any time resign his or her office in writing addressed to the Secretary of the Board.

(2) Every such member, unless he or she sooner vacates office, shall continue to hold office until his or her successor comes into office.

(3) Every casual vacancy shall be filled as soon as practicable by the appointment of a person by the contributing authority or body which appointed the member who has vacated office; and the member appointed to fill any casual vacancy shall hold office only for the residue of the term of the vacating member:

Provided that where any such vacancy occurs within 6 months before the date fixed for the next general election pursuant to the Local Elections and Polls Act 1976, the appointing body or bodies charged with filling that vacancy may determine that the vacancy shall not be filled.

(4) The powers of the Board shall not be affected by any vacancy in its membership.

8. Meetings of Board—(1) The Board shall hold such meetings as are necessary to carry out its functions effectively.

(2) The first meeting of the Board following the appointment of members as specified in section 5 (2) of this Act shall be called by the Director as soon as practicable, and shall be chaired by the Director until a Chairperson and a Deputy Chairperson are elected from the members of the Board.

(3) The Chairperson shall preside at all meetings of the Board at which he or she is present. In the absence of the Chairperson from any meeting the Deputy Chairperson shall preside, and if both are absent, then the members present shall appoint one of their number to be the Chairperson of that meeting.

(4) At any meeting of the Board one half of the members shall form a quorum.

(5) Every matter before the Board shall be decided upon by open voting by a majority of the votes recorded on it.

(6) At any meeting of the Board the Chairperson shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(7) Meetings of the Board shall be subject to the provisions of this Act and of the Local Government Official Information and Meetings Act 1987, but subject to that Act, the Board shall regulate its own proceedings.

9. Functions and powers of Board—(1) The functions of the Board shall be—

- (a) To appoint, and whenever necessary reappoint or replace, a Chief Executive Officer of the Museum, who shall be responsible to the Board for employing, on behalf of the Board, staff of the Museum and negotiating their terms of employment:

- (b) To establish for the guidance of the Chief Executive Officer broad lines of policy consistent with the objectives of the Museum as outlined in section 3 of this Act:
- (c) To ensure that the Museum building, collections, and documentation are maintained in good order and condition:
- (d) To ensure that the Museum is run effectively and efficiently in accordance with its policy.

(2) The Board shall have such powers, not inconsistent with this Act or with the relevant sections of the Local Government Act 1974, as are reasonably necessary for the effective performance of its functions.

10. Delegation of functions and powers—(1) The Board may from time to time, either generally or specifically, by resolution, delegate in writing any of its functions and powers (other than this power of delegation and the powers conferred on the Board under section 15 of this Act) to the Director or to any committee appointed under section 11 of this Act.

(2) Subject to any general or special directions given or conditions imposed by the Board, the Director or any committee to which any such delegation is made may exercise or perform the delegated functions or powers in the same manner and with the same effect as if they had been conferred by this section and not by delegation.

(3) Where the Director or any committee purports to act pursuant to any such delegation, the Director or committee shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any function or power by the Board.

(5) Until any such delegation is revoked, it shall continue in force according to its tenor.

11. Committees—(1) The Board may from time to time, by resolution, appoint such standing committees and special committees as it considers appropriate.

(2) Every committee shall be subject in all things to the control of the Board, and shall carry out all directions, general and special, of the Board given in relation to the committee or its affairs; but nothing in this section shall entitle the Board to rescind or amend a decision made by a committee pursuant to a delegation authorising the making of the decision.

(3) Subject to any provision to the contrary in this Act or any other Act, the Board may at any time and from time to time discharge or reconstitute any committee.

(4) The Board may at any time and from time to time appoint or discharge any member of a committee.

(5) Every committee shall, unless sooner discharged, be deemed to be discharged on the coming into office of the members of the Board appointed in accordance with section 6 of this Act.

(6) The Board may appoint to any committee any person who is not a member of the Board (other than an employee of the Board) if, in the opinion of the Board, that person has knowledge that will assist the work of the committee.

(7) At least one member of every committee shall be an appointed member of the Board.

(8) Subject to any directions given by the Board, and to any standing orders adopted by the Board, every committee may regulate its own procedure.

(9) At any meeting of a duly appointed committee half of the members shall form a quorum.

12. Contracts of Board—(1) Any contract which, if made between private persons, must be by deed, may be similarly made by or on behalf of the Board in writing under the seal of the Board.

(2) Any contract which, if made between private persons must be in writing signed by the parties to be charged therewith, may be similarly made by or on behalf of the Board, either under the seal of the Board or signed by 2 members of the Board on behalf of and by direction of the Board.

(3) Any contract which, if made between private persons may be made orally, may be similarly made by or on behalf of the Board, but no oral contract shall be made for any sum exceeding \$2,000.

(4) Notwithstanding anything in this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided for in this section if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board, either in relation to contracts generally or in relation to that particular contract.

(5) Nothing in this section shall limit or affect the law relating to the entering into contracts of an agent on behalf of a principal.

13. Local authorities, etc., may contribute to Board's funds—For the purpose of providing funds for the exercise and performance of the Board's powers and functions, any local authority or public body may from time to time, without further authority than this section, make grants out of its general funds to the Board of such amounts as it thinks fit.

14. Principles of financial management—Without limiting the provisions of any other enactment relating to the funds and revenues of any public body, the Board shall manage and account for its revenues, expenditure, assets, liabilities, investments, and financial dealings generally in accordance with the relevant financial management principles of the Local Government Act 1974 and generally accepted accounting practice.

15. Annual plan—(1) The Board shall prepare and adopt, for each financial year ending with the 30th day of June, an annual plan which outlines—

(a) In particular terms for the financial year in which the plan is adopted, and in general terms for each of the following 2 financial years—

(i) The intended significant policies and objectives of the Board; and

(ii) The nature and scope of significant activities to be undertaken; and

(iii) The performance targets and other measures by which performance may be judged in relation to the objectives:

(b) In particular terms for the financial year in which the report is adopted, and in general terms for each of the following 2 financial years, in total and for each significant activity of the Board—

(i) The indicative costs, including an allowance for depreciation of plant; and

(ii) The sources of funds and the amount of any proposed levies.

(2) The plan shall include an explanation of any significant changes between the policies, objectives, activities, and performance targets specified in the plan as being those for the financial year in which the plan is adopted and those specified in the plan for the immediately preceding financial year as being those for the financial year in which the plan is adopted.

(3) The draft annual plan shall be referred to the contributing authorities for a period of 3 months concluding no later than

the 31st day of May in each year, or such earlier date as agreed by mutual consultation with the contributing authorities.

(4) The Board shall consider all submissions received in respect of the draft annual plan and amend it as considered to be appropriate before adoption by the Board no later than 2 weeks following the period referred to in subsection (3) of this section.

(5) A copy of the annual plan, when adopted, shall forthwith be sent to each contributing authority.

16. Levies—(1) The total of any levies proposed in the budget shall be deemed to have been approved by all contributing authorities and binding on them once the budget is adopted, unless the Dunedin City Council gives notice in writing objecting to the levies proposed therein within the period referred to in section 15 (3) of this Act, and stating the grounds of its objection.

(2) Within 14 days of receipt of such notice of objection, the Board shall convene a meeting of all contributing authorities to be held not later than 1 month following the date referred to in section 15 (3) of this Act.

(3) At that meeting each contributing authority may be represented by 1 delegate. The delegates of the contributing authorities attending the meeting shall hear such submissions as the Board may make in support of its budget and levy.

(4) The delegates shall make recommendations to their authorities who shall inform the Board of such recommendations within 14 days of the hearing held in accordance with subsection (3) of this section.

(5) If an agreement cannot be reached within 28 days of the hearing held in accordance with subsection (3) of this section, regarding the total of the levies proposed, the contributing authorities may resolve that the total levy be reduced to an amount being not less than the total levy made in respect of the previous year.

17. Calculation of levy—A method for the apportionment of levies between the contributing authorities shall be determined in accordance with the Second Schedule to this Act for a period of 5 years commencing in July 1996, and thereafter from time to time to be determined by the contributing authorities between them as required, but if the contributing authorities fail to agree on an apportionment method, the method shall be that set out in the Second Schedule to this Act. In any formula agreed between the

contributing authorities a contribution shall be made by each contributing authority in recognition of the regional importance of the Museum.

18. Payment of levies—The amount of the levy for each financial year ending with the 30th day of June shall be paid by each contributing authority, either from its general revenues or from the proceeds of the rate provided for in section 20 of this Act,—

- (a) In 1 lump sum in the month of September in that financial year; or
- (b) By 3 equal instalments in the months of September, December, and March in that financial year.

19. Annual report—(1) The Board shall prepare and adopt, in respect of each financial year, a report assessing the performance of the Board against the policies, objectives, activities, performance targets, indicative costs, and sources of funds specified in the plan adopted in respect of that financial year under section 15 of this Act.

(2) The report adopted under subsection (1) of this section shall contain audited financial statements for the Board for the financial year consisting of—

- (a) A statement of financial position; and
- (b) An overall operating statement; and
- (c) A statement of cash flows; and
- (d) Such other statements as may be necessary to fairly reflect the financial position of the Board, the resources available to it, and the financial results of its operations.

(3) The report adopted under subsection (1) of this section shall contain—

- (a) The auditor's report—
 - (i) On the financial statements specified in subsection (2) of this section; and
 - (ii) On the performance targets and other measures by which performance has been judged in relation to the objectives; and
- (b) Such other information as is necessary to enable an informed assessment of the operations of the Board, including a comparison between the actual performance of the Board for the financial year and the projected performance of the Board for the financial year as set out in the plan adopted in respect of the financial year under section 15 of this Act.

(4) The report adopted under subsection (1) of this section shall be adopted before the end of the fifth month after the close of the financial year to which it relates.

(5) Where the Board adopts a report under this section, it shall—

- (a) Make that report available for public inspection, during ordinary office hours, at its office; and
- (b) Within 20 days after its adoption, send copies of the report to each contributing authority and every other body referred to in section 5 (2) of this Act.

20. Power to rate—In addition to any other rate which it is authorised to make, each contributing authority may from time to time make and levy a rate or a charge in its district, to be known as the Otago Museum rate, for the purpose of providing the contribution payable to the Board under this Act; and all the relevant provisions of the Rating Powers Act 1988 shall apply to such a rate.

21. Borrowing powers—(1) The Board may from time to time borrow such sums of money as it considers necessary for carrying out its functions under this Act.

(2) Any loan raised by the Board shall have the prior written approval of the Dunedin City Council.

(3) In addition to any other borrowing powers the Board may have, it may, in anticipation of its revenue, from time to time, borrow money from its bankers by way of overdraft, or from any person or persons, for the purpose of ensuring efficient and effective cash management.

22. Investment of money—Subject to the terms of any trust or endowment, any money held by or on behalf of the Board and available for investment shall be invested in any securities in which trust funds may be invested by trustees in accordance with the Trustees Act 1956, or in accordance with any other statutory authority, or in such other manner as the Board, with the approval of the Minister of Finance, may determine:

Provided that, notwithstanding any rule of law or equity to the contrary, the Board shall not be obliged to convert any securities which are the subject of a gift to the Board and are not securities in which the Board may invest money pursuant to this section.

23. Application of income and capital—(1) Subject to the terms of any trust or endowment, the income and capital of the Board shall be applied in doing whatever the Board thinks

expedient to enable the Board to accomplish the purposes for which it is established.

(2) Without limiting the generality of subsection (1) of this section, the Board may from time to time transfer any of its income to the capital of the fund created for any 1 or more of the purposes for which that income may be applied.

24. Unplanned expenditure—The Board may in every year, out of its funds, expend for purposes not authorised by any Act or law for the time being in force, any sum or sums not amounting in the aggregate to more than 0.5 percent of its total expenditure for that year.

25. Travelling allowances and expenses—There shall be payable to members of the Board, and of any committee of the Board, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 as if they were members of a statutory Board within the meaning of that Act.

26. Members of Board and committees not personally liable—Subject to section 31 of the Public Finance Act 1977, no member of the Board, or any committee of the Board, shall be personally liable for any act or default done or made by the Board or committee or by any member thereof in good faith in the course of the operations of the Board or committee.

27. Audit of Board's accounts—The Board shall keep full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and stores and persons dealing therewith.

28. Contributing authorities to report on involvement—Each contributing authority shall include in its annual report prepared under section 223E of the Local Government Act 1974, in respect of each financial year ending with the 30th day of June, information concerning its involvement with, and its financial contributions to, the Board.

29. Repeals—The following enactments are hereby repealed:

- (a) The Otago Museum Trust Board Act 1955:
 - (b) The Otago Museum Trust Board Amendment Act 1968:
 - (c) The Otago Museum Trust Board Amendment Act 1973:
 - (d) The Otago Museum Trust Board Amendment Act 1978.
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SCHEDULES

Section 5 (3)

FIRST SCHEDULE

JOINT APPOINTMENT OF MEMBER TO TRUST BOARD

If, at the commencement of this Act, the contributing authorities cannot agree upon the appointment of a member to the Board to represent them jointly, that member shall be appointed by the Clutha District Council for a period of 5 years. At the conclusion of that period the joint member to the Board shall be appointed by the District Council making the largest financial contribution to the continuation of the institution and to the finances and administration of the Board.

Section 17

SECOND SCHEDULE

CALCULATION OF LEVIES

If the contributing authorities fail to reach agreement on an apportionment method, the contribution by the contributing authorities shall be as follows, inflation adjusted (CPI) with the base year being 1996-97:

The Central Otago District Council shall pay \$10,000.

The Clutha District Council shall pay \$81,000.

The Waitaki District Council shall pay \$20,000.

The Dunedin City Council shall fund its portion of the levy to the extent of the difference between the 3 contributions above and the levy of the Museum.
