

ARTS COUNCIL OF NEW ZEALAND BILL

EXPLANATORY NOTE

THIS Bill provides for the dissolution of the Queen Elizabeth the Second Arts Council of New Zealand, and provides for a new Arts Council of New Zealand.

The purpose of the Bill is to establish—

- (a) A national body for the arts, named the Arts Council of New Zealand; and
- (b) Two arts boards, one being a Maori arts board named Te Waka Toi, and the other being a general arts board named the Arts Board,—

to support the arts in New Zealand for the benefit of all New Zealanders.

The principles underlying the Bill are—

- (a) That the ethnic and cultural diversity of the people of New Zealand, and the contributions they are making to New Zealand's artistic life and the fabric of New Zealand society should be recognised; and

- (b) That the role of Maori as tangata whenua should be recognised in the arts; and

- (c) That the following principles should be recognised and upheld:

- (i) Excellence and innovation, by supporting activities of artistic and cultural significance which develop the creative potential of artists and art forms:

- (ii) Professionalism, by maintaining and developing a professional arts infrastructure:

- (iii) Advocacy, by promoting New Zealand's arts and artists nationally and internationally:

- (iv) Access, by supporting the availability of projects of significant merit to communities or sections of the population that would otherwise not have access to them:

- (v) Participation, by supporting initiatives which encourage participation in the arts.

The new Arts Council will have 6 members appointed by the Minister of Cultural Affairs. Appointment of Maori to the Arts Council will be made after consultation with the Minister of Maori Affairs. The Arts Council will receive funding from Government and other sources.

The principal features of the new structure for allocating funding to the arts are as follows:

- (a) Two new bodies, a Maori arts board called Te Waka Toi and a general arts board called the Arts Board, will be established. Each board will have 7 members appointed by the Minister of Cultural Affairs. Appointments to Te Waka Toi will be made after consultation with the Minister of Maori Affairs. Up to 3 members of the Council may be members of each arts board. Members of the Council may not be members of both arts boards:
 - (b) The Arts Council will decide how much funding should be available for allocation by each of the 2 arts boards:
 - (c) The 2 arts boards will be responsible for making decisions as to the allocation of funding to specific arts projects:
 - (d) Grants, awards, and loans of money will be at the discretion of the boards but will be made in the name of the Arts Council. All staff will be employed by the Arts Council, and all money will be handled by the Arts Council:
 - (e) It is a specific function of the Arts Council to ensure that the arts boards allocate funding to community arts:
 - (f) The Arts Council will retain the power to make extraordinary grants, awards, and loans of money:
 - (g) The Arts Council will have the power to give directions to the arts boards:
 - (h) Both the Arts Council and the arts boards are authorised to delegate certain functions and powers to committees:
 - (i) The Regional Arts Councils that exist under the present structure will be abolished. The present statutory designation for Community Arts Councils will be revoked.
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Hon. D. A. M. Graham

ARTS COUNCIL OF NEW ZEALAND

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A BILL INTITULED

An Act—

- 5 **(a) To constitute the Arts Council of New Zealand; and**
 (b) To constitute the Arts Board and Te Waka Toi; and
 (c) To dissolve the Queen Elizabeth the Second Arts
 Council of New Zealand, Regional Arts
 Councils, and the Council for Maori and South
 Pacific Arts and to revoke statutory designation
 for Community Arts Councils; and
10 **(d) To repeal the Queen Elizabeth the Second Arts**
 Council of New Zealand Act 1974

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

1. Short Title and commencement—(1) This Act may be cited as the Arts Council of New Zealand Act 1993.

(2) This Act shall come into force on the **1st day of October 1993**.

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

“Arts” includes creative and interpretative expression through theatre, music, visual arts, literature, and crafts:

“Arts Board” means the general arts board constituted under **section 13** of this Act:

“Arts boards” or “boards” means Te Waka Toi and the Arts Board:

“Arts Council” or “Council” means the Arts Council of New Zealand constituted under **section 6** of this Act:

“Minister” means the Minister of Cultural Affairs:

“Projects” includes productions, individual art works, programmes involving individuals, companies or organisations, workshops and educational programmes, and other kinds of arts activities:

“Te Waka Toi” means the Maori arts board constituted under **section 13** of this Act.

3. Act to bind the Crown—This Act shall bind the Crown.

4. Purpose of Act—The purpose of this Act is to establish—

(a) A national body for the arts, named the Arts Council of New Zealand; and

(b) Two arts boards, one being a Maori arts board named Te Waka Toi, and the other being a general arts board named the Arts Board,—

to support the arts in New Zealand for the benefit of all New Zealanders.

5. Principles—In achieving the purpose of this Act, all persons exercising functions or powers under it—

(a) Shall have regard to the ethnic and cultural diversity of the people of New Zealand, and the contributions they are making to New Zealand’s artistic life and the fabric of New Zealand society; and

(b) Shall recognise in the arts the role of Maori as tangata whenua; and

(c) Shall recognise and uphold the following principles:

- (i) Excellence and innovation, by supporting activities of artistic and cultural significance which develop the creative potential of artists and art forms:
- 5 (ii) Professionalism, by maintaining and developing a professional arts infrastructure:
- (iii) Advocacy, by promoting New Zealand's arts and artists nationally and internationally:
- 10 (iv) Access, by supporting the availability of projects of significant merit to communities or sections of the population that would otherwise not have access to them:
- (v) Participation, by supporting initiatives which encourage participation in the arts.

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PART I

ARTS COUNCIL OF NEW ZEALAND

6. Arts Council of New Zealand—(1) There is hereby constituted a national body for the arts to be called the Arts Council of New Zealand.

20 (2) The Arts Council shall be a body corporate with perpetual succession and a common seal, and, subject to this Act and to any other Act or rule of law, shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

25 (3) The Arts Council shall be accountable to the Minister for the discharge of its statutory functions.

Cf. 1992, No. 19, s. 6 (2)

7. Functions—(1) The principal functions of the Arts Council are—

- 30 (a) To support the arts in New Zealand for the benefit of all New Zealanders:
- (b) To recognise in the arts the role of Maori as tangata whenua:
- 35 (c) To promote the development of a New Zealand identity in the arts:
- (d) To encourage cultural diversity in the arts:
- (e) To determine the level of funding that should be available for allocation by each arts board:
- (f) To deliver funding in accordance with the allocation
- 40 (g) To ensure that the arts boards allocate funding to community arts:

- (h) To uphold and promote the rights of artists and the right of persons to freedom in the practice of the arts:
- (i) To maintain relationships with other agencies and organisations:
- (j) To give advice to the Minister on any matter relating to or affecting the functions of the Council. 5
- (2) In performing its functions, the Arts Council shall have regard to the principles of this Act.

8. Powers—(1) The Council shall have all such powers as are reasonably necessary or expedient to enable it to perform its functions. 10

(2) Without limiting the generality of **subsection (1)** of this section, the Council shall have power—

- (a) To take such measures as it considers necessary to ensure that adequate funds are available for the performance of its functions: 15
- (b) To receive any money paid to the Council by the Crown or by any other person or agency:
- (c) To deliver, in accordance with decisions made by the Arts Board and Te Waka Toi, funding to art forms: 20
- (d) To make extraordinary grants, awards, or loans of money:
- (e) To make advances with or without security, at such rates of interest as it determines or free of interest:
- (f) To guarantee, with or without security, advances made by any person to any other person or persons: 25
- (g) To establish any endowments or create any trusts on such terms and conditions, and for such objects within the purposes of this Act, as the Council thinks fit, and appoint trustees in respect of any such endowments or trusts: 30
- (h) To accept gifts, devises, and bequests made to the Council, whether on trust or otherwise, and to act as trustees of money or other property vested in the Council upon trust: 35
- (i) To acquire, hold, lease, dispose of, or occupy any land, buildings, or real or personal property as the Council sees fit:
- (j) To establish such reserves as the Council thinks appropriate. 40
- (3) The Council may perform its functions and exercise its powers outside New Zealand for the benefit of New Zealand and New Zealanders.

(4) Any trustees appointed in respect of a trust established under subsection (2) (g) of this section shall keep accounts in such manner as will enable the Council to fulfil its obligations under section 41 of the Public Finance Act 1989.

5 **9. Membership**—(1) The Council shall consist of 6 persons appointed by the Minister.

(2) One member of the Council shall be appointed as Chairperson by the Minister.

10 (3) In making appointments, the Minister shall have regard to—

(a) The recognition of Maori as tangata whenua; and

15 (b) The need for the members of the Council to have between them a blend of management and financial skills and special skills, knowledge, or cultural background relating to the arts and appropriate to the functions of the Council.

(4) All Maori members of the Council shall be appointed after consultation with the Minister of Maori Affairs.

20 (5) The Council shall from time to time publicly invite, in such manner as it determines, nominations of persons who wish to be appointed as members of the Council, and the Council shall at all times maintain a list of the names of persons so nominated.

25 **10. Annual report**—(1) The Council shall, as soon as practicable after the end of each financial year, furnish to the Minister a report on its operations for that financial year.

(2) The Minister shall lay a copy of the report before the House of Representatives in accordance with section 44A of the Public Finance Act 1989.

30 **11. Further provisions applying to Council**—The provisions set out in the First Schedule to this Act shall apply in respect of the Council.

35 **12. Protection of names**—No body shall be incorporated or registered under any other enactment or in any other manner, under the following names:

(a) “Arts Council of New Zealand”;

(b) “Arts Board”;

(c) “Queen Elizabeth II Arts Council”;

(d) “Te Waka Toi”.

PART II

ARTS BOARDS

- 13. Arts boards**—There are hereby constituted 2 arts boards, of which one is to be called the Arts Board and the other is to be called Te Waka Toi. 5
- 14. Functions**—(1) The principal functions of the arts boards are—
- (a) To support the arts in New Zealand for the benefit of all New Zealanders:
 - (b) To recognise in the arts the role of Maori as tangata whenua: 10
 - (c) To promote the development of a New Zealand identity in the arts:
 - (d) In the case of the Arts Board, to allocate funding to the arts, including those of the South Pacific and other ethnic minorities of New Zealand: 15
 - (e) In the case of Te Waka Toi, to allocate funding to Maori arts,—
- and, for those purposes,—
- (f) To allocate available funding to arts projects for professional, recreational, and community arts: 20
 - (g) To establish peer assessment mechanisms and guidelines for the allocation of funding:
 - (h) To ratify and monitor funding decisions. 25
- (2) The arts boards shall also—
- (a) Make such inquiries, and provide the Council with such reports, in connection with any matter referred by the Council, as the Council directs:
 - (b) Perform such functions as may be delegated under **clause 8** of the **First Schedule** to this Act: 30
 - (c) Keep the Arts Council fully informed of all activities in their area of responsibility:
 - (d) Co-operate fully with and assist the Arts Council in the carrying out of its functions.
- 15. Performance of functions**—In performing their functions, the arts boards shall— 35
- (a) Have regard to the principles of this Act; and
 - (b) Comply with any directions of the Arts Council made under **section 18** of this Act.
- 16. Powers of arts boards**—The arts boards shall have all such powers as are reasonably necessary or expedient to enable them to perform their functions. 40

17. Membership—(1) Each board shall consist of 7 members appointed by the Minister.

(2) Each board shall include up to 3 members of the Arts Council, who may not be members of both boards.

5 (3) One member of each board shall be appointed as Chairperson by the Minister. The Chairperson shall not also be a member of the Arts Council.

(4) In making appointments, the Minister shall have regard to the need to achieve a balance of membership with a range of skills, knowledge, and experience appropriate to the purpose and functions of the respective boards.

(5) All members of Te Waka Toi shall be appointed after consultation with the Minister of Maori Affairs.

18. Power of Arts Council to give directions to arts boards—(1) The Council may give written directions to an arts board with respect to the exercise of its powers or the performance of its functions, including,—

20 (a) Directions requiring a board to act, or refrain from acting, as specified in the direction with respect to a particular matter specified in the direction; and

(b) Directions prescribing the procedure to be followed by an arts board in any particular matter or class of matters.

25 (2) An arts board shall comply with any direction so given to it.

19. Further provisions applying to arts boards—The provisions set out in the First Schedule to this Act shall apply in respect of each arts board.

PART III

30 MISCELLANEOUS PROVISIONS

20. Dissolution of Queen Elizabeth the Second Arts Council of New Zealand and other bodies—(1) The following bodies are hereby dissolved:

35 (a) The Queen Elizabeth the Second Arts Council of New Zealand referred to in section 3 of the Queen Elizabeth the Second Arts Council of New Zealand Act 1974:

(b) The Council for Maori and South Pacific Arts established under section 25A of that Act:

40 (c) Every Regional Arts Council established under section 27 of that Act.

(2) The designation under section 32 of the Queen Elizabeth the Second Arts Council of New Zealand Act 1974 of any body as a Community Arts Council is hereby revoked.

(3) No member of any Council referred to in this section shall be entitled to compensation for loss of office resulting from the dissolution of that Council or the revocation of its designation or the enactment of this Act. 5

21. Assets and liabilities—On the commencement of this Act all assets and liabilities of the Queen Elizabeth the Second Arts Council of New Zealand shall become assets and liabilities of the Arts Council. 10

22. Vesting of assets—(1) On the commencement of this Act all real and personal property vested in the Queen Elizabeth the Second Arts Council of New Zealand shall vest in the Arts Council subject to all liabilities, charges, obligations, or trusts affecting that property. 15

(2) All money payable to the Queen Elizabeth the Second Arts Council of New Zealand shall become payable to the Arts Council.

23. Final accounts—(1) As soon as practicable after the commencement of this Act, the Arts Council shall cause to be prepared final accounts of the Queen Elizabeth the Second Arts Council of New Zealand. 20

(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be sent by the Arts Council to the Minister. 25

(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be laid before the House of Representatives by the Minister as soon as practicable after their receipt by that Minister. 30

24. Transitional provisions relating to employees—(1) Notwithstanding any other provision of this Act or any provision of the State Sector Act 1988,—

(a) On the commencement of this Act, every person who was, immediately before the commencement of this Act, employed by the Queen Elizabeth the Second Arts Council of New Zealand shall become a person employed by the Council; and 35

(b) The terms and conditions of employment of every person who, by virtue of paragraph (a) of this subsection, becomes a person employed by the Council shall, 40

5 until varied or until a new contract of employment is entered into, be based on the employment contract that applied to that person immediately before the commencement of this Act in respect of that person's employment with the Queen Elizabeth the Second Arts Council of New Zealand.

10 (2) For the purposes of every enactment, law, award, determination, contract, and agreement at any time relating to the employment of a person who, by virtue of **paragraph (a)** of **subsection (1)** of this section, becomes a person employed by the Council,—

15 (a) The contract of employment that applied immediately before the commencement of this Act in respect of that person's employment with the Queen Elizabeth the Second Arts Council of New Zealand shall be deemed not to have been broken by that person having so become a person employed by the Council; and

20 (b) Any period recognised by the Queen Elizabeth the Second Arts Council of New Zealand as continuous service with the Queen Elizabeth the Second Arts Council of New Zealand shall be deemed to have been a period of continuous service with the Council.

25 (3) No person who, by virtue of **paragraph (a)** of **subsection (1)** of this section, becomes a person employed by the Council shall be entitled to any payment, benefit, or compensation by reason only of that person having ceased to be a person employed by the Queen Elizabeth the Second Arts Council of New Zealand.

Cf. 1992, No. 19, s. 30

30 **25. References to Queen Elizabeth the Second Arts Council of New Zealand in other enactments**—Every reference in any enactment to the Queen Elizabeth the Second Arts Council of New Zealand shall be deemed to be a reference to the Arts Council constituted under this Act.

35 **26. Consequential amendments**—(1) The enactments specified in the **Second Schedule** to this Act are hereby consequentially amended in the manner indicated in that Schedule.

40 (2) The Public Bodies Contracts Act 1959 is hereby amended by omitting from Part II of the First Schedule the item relating to the Queen Elizabeth the Second Arts Council of New Zealand, and inserting, in its appropriate alphabetical order, the following item:

“The Arts Council of New Zealand | 1993, No. 00—The Arts Council of New Zealand Act 1993.”

(3) The Local Authorities (Members' Interests) Act 1968 is hereby amended by omitting from Part II of the First Schedule the item relating to the Queen Elizabeth the Second Arts Council of New Zealand, and inserting, in its appropriate alphabetical order, the following item: 5

“The Arts Council of New Zealand | 1993, No. 00—The Arts Council of New Zealand Act 1993.”

27. Repeals—The enactments specified in the Third Schedule to this Act are hereby repealed. 10

SCHEDULES

FIRST SCHEDULE

Sections 11, 19

PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND ARTS BOARDS

1. Term of office—(1) Every member of the Council or a board shall be appointed for a term not exceeding 3 years.

(2) Every member of the Council or a board shall be eligible for reappointment from time to time.

(3) Where the term for which a member of the Council or a board has been appointed expires, that member, unless sooner vacating or removed from office under clause 2 of this Schedule, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

- (a) That member is reappointed; or
- (b) A successor to that member is appointed; or
- (c) That member is informed in writing by the Minister that that member is not to be reappointed and that a successor to that member is not to be appointed.

2. Extraordinary vacancies—(1) Any member of the Council or a board may at any time be removed from office by the Minister for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(2) Any member of the Council or a board may at any time resign his or her office by giving written notice to that effect to the Minister.

(3) The Chairperson or any appointed member shall be deemed to have vacated his or her office with the Council or a board if he or she is absent from 3 consecutive meetings of that body without its leave.

(4) If the Chairperson or any appointed member dies or resigns, or is removed from office, or is deemed to have vacated his or her office, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy.

(5) The powers of the Council or a board shall not be affected by any vacancy in its membership.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

(6) Every person who is appointed to fill an extraordinary vacancy shall be appointed for the remainder of the term for which his or her predecessor was appointed.

3. Deputy Chairperson—(1) The Council and each board may from time to time appoint one of its members as Deputy Chairperson.

(2) Unless the Deputy Chairperson sooner resigns from that office, or is appointed to be the Chairperson of the body, or vacates his or her office as a member of the body, he or she shall hold the office of Deputy Chairperson until the appointment of a successor in accordance with this clause, and shall be eligible for reappointment.

(3) If the Deputy Chairperson is appointed to be the Chairperson of the body, or ceases to be a member of the body, he or she shall thereupon vacate the office of Deputy Chairperson.

(4) During any vacancy in the office of Chairperson, or in the absence of the Chairperson from New Zealand, or while the Chairperson is incapacitated by sickness or otherwise, the Deputy Chairperson shall have and may exercise all the powers and functions of the Chairperson.

(5) No acts done by the Deputy Chairperson acting as the Chairperson shall in any proceedings be questioned on the grounds that the occasion for the Deputy Chairperson so acting had not arisen or had ceased.

4. Fees and allowances of members of the Council, the boards, and committees—There may be paid out of money appropriated by Parliament for the purpose to the members of the Council and each board and the members of any committee appointed under this Act remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

5. Meetings—(1) Meetings of the Council and boards shall be held at such times and places as each body or its Chairperson from time to time appoints, but the Council and boards shall meet at least once in each financial year.

(2) The Chairperson, or any 2 members, may at any time call a special meeting in accordance with **subclause (3)** of this clause.

(3) Not less than 7 days' notice of any special meeting, and of the business to be transacted at that meeting, shall be given to each member for the time being in New Zealand, and no business other than that specified in the notice shall be transacted at that meeting.

(4) At any meeting of the Council the quorum necessary for the transaction of business shall be 4 members. At any meeting of a board the quorum necessary for the transaction of business shall be 5 members.

(5) At all meetings of the Council or boards the Chairperson shall preside if he or she is present. If the Chairperson and the Deputy Chairperson are absent, the members present shall appoint one of their number to be chairperson of that meeting.

(6) All questions arising at any meeting of the Council or boards shall be decided by a majority of the valid votes recorded thereon.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

(7) At any meeting of the Council or boards, the Chairperson or other person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(8) A resolution signed, or assented to by letter, facsimile transmission, telex, or other method of communication, by not less than 4 members of the Council or 5 members of a board shall have the same effect as a resolution duly passed at a meeting of the Council or board.

(9) Subject to the provisions of this Act, and of any rules made under **clause 6** of this Schedule, each body may regulate its own procedure.

6. Rules—(1) The Council may from time to time, by resolution, make, alter, or rescind any rules not inconsistent with this Act, for all or any of the following purposes:

- (a) Prescribing the procedure to be followed at any meeting of the Council or committee of the Council;
- (b) Providing for the custody of its property and the use of its common seal;
- (c) Prescribing the duties of its officers and other employees;
- (d) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Council or of any committee thereof.

(2) A board may from time to time, by resolution, make, alter, or rescind any rules not inconsistent with this Act for all or any of the following purposes:

- (a) Prescribing the procedure to be followed at any meeting of the board or committee of the board;
- (b) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the board or of any committee thereof.

7. Committees—(1) The Council or a board may from time to time, by resolution, appoint, alter, discharge, continue, or reconstitute any committee to advise the Council or a board on such matters relating to the Council's or a board's functions and powers as may be delegated to the committee under **clause 8** of this Schedule.

(2) Every committee shall consist of such number of persons as the Council or the board thinks fit to enable the committee to carry out such functions and powers as may be delegated to the committee under **clause 8** of this Schedule.

(3) Any person may be appointed to be a member of a committee, whether or not that person is a member of the Council or a board.

(4) Subject to this Act, to any rules made by the Council or a board, and to any direction given by the Council or a board, every committee may regulate its own procedure.

8. Delegation of functions and powers—(1) Subject to **subclause (3)** of this clause, the Council may from time to time, either generally or specifically, delegate any of its functions and powers to an arts board.

(2) Subject to **subclause (3)** of this clause, the Council or a board may from time to time, either generally or specifically, delegate any of its functions

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

and powers to any of its committees or members or to any employee or employees of the Council, whether by name or as the holder or holders for the time being of any specified office or offices.

(3) The Council shall not delegate the following powers:

(a) The power of delegation conferred by **subclause (1) or (2)** of this clause:

(b) The power to determine the level of funding that should be available for allocation by each arts board:

(c) The power to borrow money conferred by **clause 20** of this Schedule:

(d) The power to make, alter, or rescind rules conferred by **clause 6** of this Schedule.

(4) Every delegation under this clause shall be in writing.

(5) The Council or board exercising the power of delegation shall ensure that a copy of every delegation under this clause is kept at its office and is made available for inspection by any person.

(6) Any delegation under this section may be made to—

(a) A specified person; or

(b) A person belonging to a specified class of persons; or

(c) The holder for the time being of a specified office or appointment; or

(d) The holder for the time being of an office or appointment of a specified class.

(7) Subject to any general or special directions given or conditions imposed by the Council or board, the committee or person to whom 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 directly by this Act and not by delegation.

(8) Every committee or person purporting to act pursuant to any delegation under this clause shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(9) Where the Council or board, or any delegate of the Council or board, uses a written document to inform any other person of action taken by the delegate, that document shall—

(a) State that the action was taken by a delegate of the Council or the board, as the case may be; and

(b) Give the delegate's name and office, or the name of the committee that acted pursuant to the delegation, as the case may be; and

(c) State that a copy of the instrument of delegation is available for inspection at the Council's or board's office, as the case may be.

(10) Every delegation under this clause shall be revocable at will, but any such revocation shall not take effect until it is communicated to the delegate.

(11) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Council or the board or of any committee.

(12) No delegation under this clause shall prevent the performance or exercise of any function or power by the Council or the board which made the delegation.

9. Appointment of chief executive officer—(1) The Council may from time to time appoint a chief executive officer.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

(2) The conditions of employment of the chief executive officer shall be determined from time to time by the Council.

(3) The Council shall not, in determining terms and conditions under **subclause (2)** of this clause, agree to any conditions of employment for a chief executive officer of the Council without—

- (a) Consulting the State Services Commissioner; and
- (b) Having regard to all recommendations the Commissioner makes to the Council about them within a reasonable time of being consulted.

10. Appointment of other employees—(1) The chief executive officer may appoint such employees, including employees on secondment from other organisations, as he or she thinks necessary for the efficient performance of the Council's functions, and, subject to **subclauses (3)** and **(4)** of this clause, may negotiate the terms and conditions of employment of such employees.

(2) Subject to the terms and conditions of employment, the chief executive officer may at any time terminate or suspend the employment of any of the Council's employees.

(3) Before entering into any collective employment contract under the Employment Contracts Act 1991, the Council shall consult with the State Services Commissioner about the conditions of employment to be included in the collective employment contract.

(4) Where there is no collective employment contract, the Council shall consult with the State Services Commissioner from time to time about the conditions of employment applying generally to the employees of the Council.

11. Personnel policy—(1) The Council shall operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this clause, a "good employer" is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Recognition of—
 - (i) The aims and aspirations of Maori; and
 - (ii) The employment requirements of Maori; and
 - (iii) The need for involvement of Maori as employees of the Council; and
- (e) Opportunities for the enhancement of the abilities of individual employees; and
- (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) Recognition of the employment requirements of women; and
- (h) Recognition of the employment requirements of persons with disabilities.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

12. Equal employment opportunities—(1) The Council shall—

- (a) Develop and publish in each year an equal employment opportunities programme; and
- (b) Ensure in each year that the programme for that year is complied with and reported on within the Council's annual report.

(2) For the purposes of this clause and **clause 11** of this Schedule, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

13. Choice of procedure—Where the circumstances giving rise to a personal grievance by a person employed by the Council are also such that that person would be entitled to make a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971, that person may take one, but not both, of the following steps:

- (a) The person may invoke, in relation to those circumstances, the procedures applicable in relation to personal grievances under the Employment Contracts Act 1991 or the relevant award or agreement; or
- (b) The person may make, in relation to those circumstances, a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971.

14. Superannuation or retiring allowances—(1) For the purpose of providing a superannuation fund or retiring allowances for its employees, the Council may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

(2) Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Council, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Council; and that Act shall apply to that person in all respects as if that person's service as an employee of the Council is Government service.

(3) Nothing in **subclause (2)** of this clause entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subclause (2)** of this clause, to an employee of the Council who is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to that employee, means the Council.

15. Application of certain Acts to members and employees—Subject to **clause 14 (2)** of this Schedule, no person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment under **clause 9** or **clause 10** of this Schedule.

16. Council to be Crown entity for purposes of Public Finance Act 1989—The Council shall be a Crown entity for the purposes of the Public Finance Act 1989.

17. Funds of Council—The funds of the Council shall consist of—

- (a) All money appropriated by Parliament for the purposes of the Arts Council and paid to the Council for the purposes of the Arts Council; and
- (b) All money allocated to the Council under section 116j (1) (a) of the Gaming and Lotteries Act 1977 (as substituted by section 3 of the Gaming and Lotteries Amendment Act 1987);
- (c) All money lawfully contributed, donated, or bequeathed to the Council or otherwise lawfully payable to it; and
- (d) All money received by the Council by way of fees, rent, or otherwise in respect of any real or personal property vested in or controlled by the Council, or in respect of the performance or exercise of any of the functions or powers of the Council; and
- (e) All money received by the Council from the sale or other disposal of any of its real or personal property; and
- (f) All accumulations of income derived from any such money.

18. Bank accounts—(1) The Council shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Council, or by any member or employee of the Council for the purposes of the Council, shall, as soon as practicable after it has been received, be paid into such bank accounts of the Council as the Council from time to time determines.

(3) The withdrawal or payment of money from any such accounts shall be authorised in such manner as the Council thinks fit.

(4) Any bank account of the Council shall be operated only by cheque or other instrument signed by a member or an officer of the Council authorised by the Council to do so, and shall be countersigned by another member or officer of the Council authorised to do so.

19. Investment of money—Subject to the terms of any trust or endowment, any money held by or on behalf of the Council and which is not immediately required for expenditure, may be invested in accordance with section 25 of the Public Finance Act 1989.

20. Borrowing powers—(1) The Council may, from time to time, borrow money from any bank by way of overdraft.

(2) Without prejudice to **subclause (1)** of this clause, the Council may, with the prior written approval of the Minister of Finance, borrow money by way of mortgage, debentures, bonds, or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as it thinks fit.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF ARTS COUNCIL AND
ARTS BOARDS—*continued*

21. Unauthorised expenditure—The Council may, in any financial year, expend any sum or sums not amounting in the aggregate to more than \$4,000 for purposes not authorised by this Act.

22. Audits—The annual financial statements of the Council shall be audited by the Audit Office, which shall, for that purpose, have the same powers as it has under Part II of the Public Finance Act 1977.

23. Exemption from income tax—The Council shall be exempt from the payment of income tax.

24. Protection of persons acting under authority of Act—No person who does any act in pursuance or intended pursuance of any of the functions conferred on him or her by or under this Act shall be under any civil or criminal liability in respect of the act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care.

SECOND SCHEDULE
ENACTMENTS AMENDED

Section 26 (1)

Enactment	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	<p>By omitting from Part II of the First Schedule the item relating to the Queen Elizabeth the Second Arts Council of New Zealand.</p> <p>By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:</p>
1977, No. 84—The Gaming and Lotteries Act 1977	<p>“The Arts Council of New Zealand.”</p> <p>By repealing paragraph (a) of section 116j (1) (as enacted by section 3 of the Gaming and Lotteries Amendment Act 1987), and substituting the following paragraph:</p> <p>“(a) The Arts Council of New Zealand constituted under the Arts Council of New Zealand Act 1993.”</p>
1983, No. 130—The Films Act 1983	<p>By omitting from Part II of the Schedule the item relating to the Queen Elizabeth the Second Arts Council of New Zealand.</p> <p>By inserting in Part II of the Schedule, in its appropriate alphabetical order, the following item:</p>
1988, No. 20—The State Sector Act 1988	<p>“The Arts Council of New Zealand.”</p> <p>By repealing so much of the Fifth Schedule as relates to the Queen Elizabeth the Second Arts Council of New Zealand Act 1974.</p>
1989, No. 44—The Public Finance Act 1989	<p>By repealing so much of the First Schedule as relates to the Queen Elizabeth the Second Arts Council of New Zealand Act 1974.</p> <p>By omitting from the Fourth Schedule (as added by section 41 of the Public Finance Amendment Act 1992) the item relating to the Queen Elizabeth the Second Arts Council of New Zealand.</p> <p>By inserting in the Fourth Schedule (as so added), in its appropriate alphabetical order, the following item:</p> <p>“Arts Council of New Zealand.”</p> <p>By omitting from the Fifth Schedule (as added by section 41 of the Public Finance Amendment Act 1992) the item relating to the Queen Elizabeth the Second Arts Council of New Zealand.</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1989, No. 44—The Public Finance Act 1989— <i>continued</i>	By inserting in the Fifth Schedule (as so added), in its appropriate alphabetical order, the following item: “Arts Council of New Zealand.”
1990, No. 126—The National Provident Fund Restructuring Act 1990	By repealing so much of the Sixth Schedule as relates to the Queen Elizabeth the Second Arts Council of New Zealand Act 1974.
1992, No. 142—The Public Finance Amendment Act 1992	By repealing so much of the Second Schedule as relates to the Queen Elizabeth the Second Arts Council of New Zealand Act 1974.

Section 27

THIRD SCHEDULE

ENACTMENTS REPEALED

- 1974, No. 67—The Queen Elizabeth the Second Arts Council of New Zealand Act 1974. (R.S. Vol. 24, p. 685.)
- 1977, No. 170—The Queen Elizabeth the Second Arts Council of New Zealand Amendment Act 1977. (R.S. Vol. 24, p. 715.)
- 1978, No. 29—The Queen Elizabeth the Second Arts Council of New Zealand Amendment Act 1978. (R.S. Vol. 24, p. 716.)
- 1983, No. 89—The Queen Elizabeth the Second Arts Council of New Zealand Amendment Act 1983. (R.S. Vol. 24, p. 718.)
- 1990, No. 13—The Queen Elizabeth the Second Arts Council of New Zealand Amendment Act 1990.