

**Reprint
as at 30 April 2014**



**Arts Council of New Zealand Toi
Aotearoa Act 1994**

Public Act 1994 No 19
Date of assent 29 June 1994
Commencement see section 1(2)

Arts Council of New Zealand Toi Aotearoa Act 1994: repealed, on 30 April 2014, by section 26 of the Arts Council of New Zealand Toi Aotearoa Act 2014 (2014 No 1).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.

Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry for Culture and Heritage.

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An Act—

- (a) to constitute the Arts Council of New Zealand Toi Aotearoa; 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**
- (d) to repeal the Queen Elizabeth the Second Arts Council of New Zealand Act 1974**

1 Short Title and commencement

- (1) This Act may be cited as the Arts Council of New Zealand Toi Aotearoa Act 1994.
- (2) This Act shall come into force on 1 July 1994.

2 Interpretation

In this Act, unless the context otherwise requires,—

arts includes all forms of creative and interpretative expression

Arts Board means the general arts board constituted under section 13

arts boards or **boards** means the Arts Board and Te Waka Toi
Arts Council or **Council** means the Arts Council of New Zealand Toi Aotearoa constituted under section 6

community arts means projects undertaken within a local community—

- (a) that may represent either a specific geographical area or defined communities of interest; and
- (b) that allow for access and participation by the wider community,—

and includes recreational arts

community arts council means any council established under section 22, or deemed to be so established under section 26

community arts provider means any body that is designated under section 20

Minister means the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of this Act

professional arts means projects that provide significant income for those undertaking the projects

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.

Section 2 **Minister**: substituted, on 1 October 2000, by section 12 of the Archives, Culture, and Heritage Reform Act 2000 (2000 No 32).

3 Act to bind the Crown

This Act shall bind the Crown.

4 Purpose of Act

The purpose of this Act is—

- (a) to establish a national body for the arts, named the Arts Council of New Zealand Toi Aotearoa; and
- (b) to establish 2 arts boards, one being a Maori arts board named Te Waka Toi, and the other being a general arts board named the Arts Board; and
- (c) to provide for the designation of community arts providers—

to encourage, promote, and 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 recognise the cultural diversity of the people of New Zealand; and
- (b) shall recognise in the arts the role of Maori as tangata whenua; and

- (c) shall recognise the arts of the Pacific Islands' peoples of New Zealand; and
- (d) shall recognise and uphold the following principles:
 - (i) participation, by supporting initiatives which encourage participation in the arts:
 - (ii) access, by supporting the availability of projects of merit to communities or sections of the population that would otherwise not have access to them:
 - (iii) excellence and innovation, by supporting activities of artistic and cultural significance which develop the creative potential of artists and art forms:
 - (iv) professionalism, by maintaining and developing a professional arts infrastructure, both at national and community levels:
 - (v) advocacy, by promoting New Zealand's arts and artists locally, nationally, and internationally.

Part 1

Arts Council of New Zealand Toi Aotearoa

6 Arts Council of New Zealand Toi Aotearoa

- (1) There is hereby constituted a national body for the arts to be called the Arts Council of New Zealand Toi Aotearoa.
- (2) The Arts Council is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (3) The Crown Entities Act 2004 applies to the Council except to the extent that this Act expressly provides otherwise.

Compare: 1992 No 19 s 6(2)

Section 6(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 6(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Functions

- (1) The principal functions of the Arts Council are—
 - (a) to encourage, promote, and 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:
 - (c) to promote the development of a New Zealand identity in the arts:
 - (d) to encourage, promote, and support the arts of the Pacific Islands' peoples of New Zealand and the arts of the diverse cultures of New Zealand:
 - (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 decisions of the arts boards:
 - (g) to formulate policies for the direction of the arts boards:
 - (h) to ensure that the arts boards encourage, promote, and support professional and community arts:
 - (i) to uphold and promote the rights of artists and the right of persons to freedom in the practice of the arts:
 - (j) to maintain relationships with other agencies and organisations:
 - (k) to give advice to the Minister on any matter relating to or affecting the functions of the Council.
- (2) In performing its functions, the Arts Council shall have regard to the principles of this Act.
- (3) The Minister may not give a direction to the Council in relation to cultural matters.

Section 7(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Powers

- (1) *[Repealed]*
- (2) Without limiting sections 16 and 17 of the Crown Entities Act 2004, the Council has power—
- (a) to deliver funding in accordance with decisions made by the arts boards:
 - (b) to establish any endowments or create any trusts on any terms and conditions, and for any objects within the purposes of this Act, that the Council thinks fit, and appoint trustees in respect of any of those endowments or trusts.

- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) Any trustees appointed in respect of a trust must keep accounts in a manner that will enable the Council to fulfil its obligations under section 154 of the Crown Entities Act 2004.

Section 8(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 8(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 8(3): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 8(4): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 8(5): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Membership

- (1) The board of the Council consists of 7 persons.
- (2) *[Repealed]*
- (3) In making appointments, the Minister shall have regard to—
 - (a) the recognition of Maori as tangata whenua; and
 - (b) the need for members of the Council to have between them a blend of knowledge of professional and community arts, management, financial and special skills, and knowledge appropriate to the functions of the Council, culturally diverse backgrounds, and rural and urban backgrounds.
- (3A) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.
- (4) All Maori members of the Council shall be appointed after consultation with the Minister of Maori Affairs.
- (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 or either of the 2 boards or the South Pacific Arts Committee or for peer assessment purposes, and the Council shall at all times maintain a list of the names of the persons wishing to be so appointed which shall be open to public inspection at the Council's offices during normal office hours.

Section 9(1): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 9(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 9(3A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Council to prepare strategic plan

- (1) The Council shall, after public consultation, prepare and publish a 3-year strategic plan.
- (2) The strategic plan shall outline—
 - (a) the significant policies and objectives of the Council:
 - (b) the policies formulated for the direction of the arts boards:
 - (c) the nature and scope of the significant activities, accountability mechanisms, and consultation procedures to be undertaken or implemented:
 - (d) an explanation of any significant differences between the policies, objectives, and activities specified in the strategic plan and those specified in the previous strategic plan.
- (3) The strategic plan shall be prepared as soon as practicable after the beginning of every third financial year.

11 Delegation of functions and powers by Council

- (1) Subject to subsections (3) and (4), the Council may delegate any of its functions and powers to an arts board.
- (2) In other respects, section 73 of the Crown Entities Act 2004 applies.
- (3) Sections 74 to 76 of that Act apply to a delegation under subsection (1).
- (4) The Council may not delegate—
 - (a) the power to determine the level of funding that should be available for allocation by each arts board:
 - (b) any power to borrow money that it may have under section 160 or section 162 of the Crown Entities Act 2004.

Section 11: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Exemption from income tax

The Council is exempt from the payment of income tax.

Section 12: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Part 2
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.

14 Functions

- (1) The principal functions of the arts boards are—
- (a) to encourage, promote, and 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:
 - (c) to promote the development of a New Zealand identity in the arts:
 - (d) in the case of the Arts Board, to allocate funding for the arts, including—
 - (i) those of the Pacific Islands' peoples of New Zealand through a South Pacific Arts Committee; and
 - (ii) those of the diverse cultures of New Zealand:
 - (e) in the case of Te Waka Toi, to allocate funding for Maori arts,—
- and, for those purposes,—
- (f) to allocate available funding to arts projects for professional and community arts:
 - (g) to establish peer assessment mechanisms and guidelines for the allocation of funding:
 - (h) to set guidelines relating to designated community arts providers, including, without limiting the generality of the foregoing, guidelines relating to their establishment, membership, functions, operation, and accountability:
 - (i) to ratify and monitor funding decisions.

- (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 section 73 of the Crown Entities Act 2004:
 - (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 and each other in the carrying out of their functions.

Section 14(2)(b): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

15 Performance of functions

In performing their functions, the arts boards shall—

- (a) have regard to the principles of this Act; and
- (b) comply with any directions of the Arts Council made under section 18.

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.

17 Membership

- (1) Each board shall consist of 7 members appointed by the Minister.
- (2) Each board shall include no more than 1 member of the Council, who may not be a member of both boards. The Chairperson of the Council may not be a member of either board.
- (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 for members of each board to have between them a blend of knowledge of professional and community arts, management, financial and special skills, and knowledge, culturally diverse backgrounds, and rural and urban backgrounds appropriate to the functions of the board.

- (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,—
- (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.
- (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 Schedule 1 shall apply in respect of each arts board.

Part 3

Community arts providers

20 Arts boards may designate community arts providers

- (1) Any body involved in community arts, including any local authority, may apply in writing to an arts board to be designated as a community arts provider.
- (2) An arts board may designate any such body as a community arts provider if satisfied—
- (a) that the body complies with such guidelines as may be set by the arts board in relation to designated community arts providers; and
 - (b) that the body represents, in relation to the arts, either a specific geographical area or a defined community of interest.
- (3) Each arts board shall maintain a formal register of designated community arts providers.
- (4) An arts board may, if satisfied that any designated community arts provider has not complied with, or is not performing according to, the guidelines set by the arts board, revoke the designation of any community arts provider after giving the

community arts provider not less than 60 days' written notice of its intention to do so.

21 Allocation of funding via designated community arts providers

- (1) Each arts board may allocate available funding to designated community arts providers.
- (2) Each designated community arts provider shall allocate that funding to community arts projects in accordance with such guidelines as may be set by the arts board and having regard to the principles of this Act.

22 Arts boards may establish community arts councils

- (1) An arts board may establish a community arts council in relation to any specific geographical area.
- (2) Subject to the other provisions of this Act and to any guidelines set and rules made by the arts board, every community arts council may regulate its own procedure.
- (3) A community arts council may apply in writing to an arts board to be designated as a community arts provider.
- (4) An arts board may, if satisfied that any community arts council has not complied with, or is not performing according to, the guidelines set by the arts board, disestablish any community arts council after giving the council not less than 60 days' written notice of its intention to do so.

23 Funds to revert to Arts Council

Where—

- (a) the designation of any community arts provider is revoked under section 20(4); or
- (b) any community arts council is disestablished under section 22(4),—

all funds of the Arts Council that have been allocated to the community arts provider or community arts council and that have not been allocated to community arts projects shall be repaid to the Arts Council.

24 Administrative local authorities

- (1) An arts board may designate as the administrative local authority in respect of each community arts council, for the purposes of this Act, a local authority whose boundaries lie wholly or partly within the area in which that council carries on its activities.
- (2) A local authority shall not be designated as an administrative local authority under this section unless it has consented in writing to the designation.
- (3) Any consent under subsection (2) may be given on such terms and conditions as to the appointment of a local authority representative as a member of the council or otherwise, as the local authority thinks appropriate.
- (4) The administrative local authority in respect of a community arts council shall provide reasonable administrative and secretarial services for that council.
- (5) Notwithstanding subsection (1), an administrative local authority may, instead of providing the services specified in that subsection for the council, make a reasonable grant to the council to enable the council itself to provide for such services.
- (6) The administrative local authority may appoint representatives of any community arts council to attend and participate in any local authority meeting considering funding of the arts, and may consult any community arts council on any proposed local authority policies, facilities, or activities relating to the arts.
- (7) An arts board may from time to time revoke the designation of any administrative local authority in respect of a community arts council after giving the administrative local authority and the community arts council not less than 60 days' written notice of its intention to do so.
- (8) An arts board shall revoke the designation of any administrative local authority in respect of a community arts council if requested to do so in writing by the administrative local authority, effective at the expiry of 3 months after the date of the administrative local authority's request.
- (9) In this section, **local authority** means a territorial authority within the meaning of the Local Government Act 2002.

Compare: 1974 No 67 ss 36, 37

Section 24(9): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Part 4

Miscellaneous provisions

25 Dissolution of Queen Elizabeth the Second Arts Council of New Zealand and other bodies

[Repealed]

Section 25: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

26 Transitional provision applying to community arts councils

[Repealed]

Section 26: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

27 Assets and liabilities

[Repealed]

Section 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

28 Vesting of assets

[Repealed]

Section 28: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

29 Final accounts

[Repealed]

Section 29: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

30 Transitional provisions relating to employees

[Repealed]

Section 30: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

31 New Zealand Authors' Fund

[Repealed]

Section 31: repealed, on 1 January 2009, by section 21(a) of the Public Lending Right for New Zealand Authors Act 2008 (2008 No 104).

32 Protection of names

- (1) No body shall be incorporated or registered under any other enactment, or in any other manner, under any of the following names:
- (a) Arts Council of New Zealand Toi Aotearoa:
 - (b) Arts Board:
 - (c) Queen Elizabeth II Arts Council:
 - (d) Te Waka Toi.
- (2) No body other than a community arts council within the meaning of this Act shall be incorporated or registered under any other enactment, or in any other manner, under the name “community arts council”.

33 References to Queen Elizabeth the Second Arts Council of New Zealand in enactments and documents

Every reference in any enactment or document 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.

34 Consequential amendments

[Repealed]

Section 34: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

35 Repeals

The enactments specified in Schedule 3 are hereby repealed.

Schedule 1

ss 12, 19

**Provisions applying in respect of arts
boards**

Schedule 1 heading: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

1 Term of office

- (1) Every member of a board shall be appointed for a term not exceeding 3 years.
- (2) Every member of a board shall be eligible for reappointment from time to time.
- (3) Where the term for which a member of a board has been appointed expires, that member, unless sooner vacating or removed from office under clause 2, 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.

Schedule 1 clause 1(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 1(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 1(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

2 Extraordinary vacancies

- (1) Any member of 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 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 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 a board shall not be affected by any vacancy in its membership.
- (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.

Schedule 1 clause 2(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 2(5): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

3 Deputy Chairperson

- (1) 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.

Schedule 1 clause 3(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

4 Fees and allowances of members of boards and committees

- (1) There may be paid out of money appropriated by Parliament for the purpose to the members of 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 framework, and the provisions of that Act shall apply accordingly.
- (1A) For the purposes of subclause (1), **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.
- (2) Nothing in subclause (1) shall apply to any member of a community arts council or other designated community arts provider.

Schedule 1 clause 4 heading: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 4(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 4(1A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

5 Meetings

- (1) Meetings of boards shall be held at such times and places as each body or its Chairperson from time to time appoints, but 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).
- (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 a board the quorum necessary for the transaction of business shall be 5 members.

- (5) At all meetings of 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 a board shall be decided by a majority of the valid votes recorded thereon.
- (7) At any meeting of a board, 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 5 members shall have the same effect as a resolution duly passed at a meeting of the board.
- (9) Subject to the provisions of this Act, and of any rules made under clause 6, each body may regulate its own procedure.

Schedule 1 clause 5(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(4): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(5): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(6): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(7): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 5(8): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

6 Rules

- (1) *[Repealed]*
- (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 or community arts council:
 - (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 or of any community arts council.

Schedule 1 clause 6(1): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Committees

- (1) A board may from time to time, by resolution, appoint, alter, discharge, continue, or reconstitute any committee to advise a board on such matters relating to a board's functions and powers as may be delegated to the committee under clause 8.
- (2) Every committee shall consist of such number of persons as 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.
- (3) Any person may be appointed to be a member of a committee, whether or not that person is a member of a board.
- (4) Subject to this Act, to any rules made by a board, and to any direction given by the Council or a board, every committee of the board may regulate its own procedure.

Schedule 1 clause 7(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 7(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 7(3): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 7(4): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Delegation of functions and powers by boards

- (1) A board may, either generally or specifically, delegate any of its functions 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.
- (2) Every delegation under this clause must be in writing.
- (3) The board exercising the power of delegation must ensure that a copy of every delegation under this clause is kept at its office and is made available for inspection by any person.
- (4) Any delegation under this clause 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.
- (5) Subject to any general or special directions given or conditions imposed by the board, the committee or person to whom a 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.
- (6) Every committee or person purporting to act under any delegation under this clause must, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (7) If the board, or any delegate of the board, uses a written document to inform any other person of action taken by the delegate, that document must—
 - (a) state that the action was taken by a delegate of the board; 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 board's office.
- (8) Every delegation under this clause is revocable at will, but any such revocation does not take effect until it is communicated to the delegate.
- (9) Until the delegation is revoked, it continues in force according to its tenor, despite any change in the membership of the board or of any committee.
- (10) No delegation under this clause prevents the performance or exercise of any function or power by the board that made the delegation.

Schedule 1 clause 8: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Appointment of chief executive officer*[Repealed]*

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Appointment of other employees*[Repealed]*

Schedule 1 clause 10: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Personnel policy*[Repealed]*

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Equal employment opportunities*[Repealed]*

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 Choice of procedure*[Repealed]*

Schedule 1 clause 13: repealed, on 1 December 2004, by section 72 of the Employment Relations Amendment Act (No 2) 2004 (2004 No 86).

14 Superannuation or retiring allowances*[Repealed]*

Schedule 1 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

15 Application of certain Acts to members and employees*[Repealed]*

Schedule 1 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

16 Council to be Crown entity for purposes of Public Finance Act 1989*[Repealed]*

Schedule 1 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

17 Funds of Council

[Repealed]

Schedule 1 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

18 Bank accounts

[Repealed]

Schedule 1 clause 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

19 Investment of money

[Repealed]

Schedule 1 clause 19: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

20 Borrowing powers

[Repealed]

Schedule 1 clause 20: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

21 Unauthorised expenditure

[Repealed]

Schedule 1 clause 21: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

22 Audits

[Repealed]

Schedule 1 clause 22: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

23 Exemption from income tax

[Repealed]

Schedule 1 clause 23: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

24 Protection of members of arts boards acting under authority of Act

- (1) Sections 120 to 126 of the Crown Entities Act 2004 apply to a member or employee of an arts board who performs any functions in accordance with this Act, whether or not under

a delegation from the Council, as if he or she were a member of a statutory entity.

- (2) However, section 121(1)(a) and (3)(a) do not apply to a member of an arts board.

Schedule 1 clause 24: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2

Enactments amended

s 34(1)

Films Act 1983 (1983 No 130)

Amendment(s) incorporated in the Act(s).

Gaming and Lotteries Act 1977 (1977 No 84)

Amendment(s) incorporated in the Act(s).

National Provident Fund Restructuring Act 1990 (1990 No 126)

Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)

Amendment(s) incorporated in the Act(s).

Public Finance Act 1989 (1989 No 44)

Amendment(s) incorporated in the Act(s).

Public Finance Amendment Act 1992 (1992 No 142)

Amendment(s) incorporated in the Act(s).

State Sector Act 1988 (1988 No 20)

Amendment(s) incorporated in the Act(s).

Schedule 3

s 35

Enactments repealed

**Queen Elizabeth the Second Arts Council of New Zealand Act
1974 (1974 No 67) (RS Vol 24, p 685)**

**Queen Elizabeth the Second Arts Council of New Zealand
Amendment Act 1977 (1977 No 170) (RS Vol 24, p 715)**

**Queen Elizabeth the Second Arts Council of New Zealand
Amendment Act 1978 (1978 No 29) (RS Vol 24, p 716)**

**Queen Elizabeth the Second Arts Council of New Zealand
Amendment Act 1983 (1983 No 89) (RS Vol 24, p 718)**

**Queen Elizabeth the Second Arts Council of New Zealand
Amendment Act 1990 (1990 No 13)**

Employment Relations Amendment Act (No 2) 2004

Public Act 2004 No 86
Date of assent 28 October 2004
Commencement see section 2

1 Title

- (1) This Act is the Employment Relations Amendment Act (No 2) 2004.
- (2) In this Act, the Employment Relations Act 2000 is called “the principal Act”.

2 Commencement

This Act comes into force on 1 December 2004.

73 Transitional provisions

- (1) The amendments made by this Act do not apply to anything done or any matter arising before the commencement of this Act.
- (2) However, subsection (1) applies subject to subsections (3) to (20).
- (3) The definition of **coverage clause** in section 5 of the principal Act (as substituted by section 7(1) of this Act) applies to a collective agreement whether it comes into force before or after the commencement of this Act.
- (4) Section 9(3) of the principal Act (as added by section 8 of this Act) applies to a collective agreement whether it comes into force before or after the commencement of this Act.
- (5) Section 20(5) of the principal Act (as added by section 9 of this Act) applies whether the discussion took place before or after the commencement of this Act.
- (6) Section 32(1)(ca) (as inserted by section 11 of this Act) applies whether the bargaining started before or after the commencement of this Act.

- (7) Section 33 of the principal Act (as substituted by section 12 of this Act) applies whether the bargaining started before or after the commencement of this Act.
- (8) Sections 50A to 50J of the principal Act (as inserted by section 14 of this Act)—
 - (a) apply whether the bargaining started before or after the commencement of this Act; but
 - (b) do not apply in relation to grounds that exist before the commencement of this Act.
- (9) Section 56(1A) of the principal Act (as inserted by section 16 of this Act) applies whether an employee's employment started before or after the commencement of this Act.
- (10) Section 56A of the principal Act (as inserted by section 17 of this Act) applies whether the collective agreement came into force before or after the commencement of this Act.
- (11) Section 59B(2) of the principal Act (as inserted by section 18 of this Act) applies whether the collective agreement came into force before or after the commencement of this Act.
- (12) Section 59B(4) of the principal Act (as inserted by section 18 of this Act) applies whether the bargaining started before or after the commencement of this Act.
- (13) Section 59C(2) of the principal Act (as inserted by section 18 of this Act) applies whether the collective agreement came into force before or after the commencement of this Act.
- (14) Section 59C(4) of the principal Act (as inserted by section 18 of this Act) applies whether the bargaining started before or after the commencement of this Act.
- (15) Section 65A of the principal Act (as inserted by section 26 of this Act) applies whether the individual employment agreement started before or after the commencement of this Act.
- (16) Section 78(3A) of the principal Act (as inserted by section 34 of this Act) applies whether the employer was told of the proposal to take employment leave before or after the commencement of this Act.
- (17) Section 149(3)(ab) of the principal Act (as inserted by section 51 of this Act) applies to the agreed terms of settlement whether the agreed terms of settlement are signed before or after the commencement of this Act.

- (18) Section 149(4) of the principal Act (as inserted by section 51 of this Act) applies whether the agreed terms of settlement are signed before or after the commencement of this Act.
 - (19) Section 150(4) of the principal Act (as inserted by section 52 of this Act) applies whether the decision was signed before or after the commencement of this Act.
 - (20) Section 194A of the principal Act (as inserted by section 65 of this Act),—
 - (a) applies whether the exercise, refusal to exercise, or proposed or purported exercise of the statutory power of decision was made before or after the commencement of this Act; but
 - (b) does not apply if an application or proceedings of the type referred to in section 194(1) have been started.
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Reprints notes

1 *General*

This is a reprint of the Arts Council of New Zealand Toi Aotearoa Act 1994 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Arts Council of New Zealand Toi Aotearoa Act 2014 (2014 No 1): section 26
Public Lending Right for New Zealand Authors Act 2008 (2008 No 104): section 21(a)
Crown Entities Act 2004 (2004 No 115): section 200
Employment Relations Amendment Act (No 2) 2004 (2004 No 86): section 72
Local Government Act 2002 (2002 No 84): section 262
Archives, Culture, and Heritage Reform Act 2000 (2000 No 32): section 12
