

Reprint  
as at 1 July 2013



**New Zealand Symphony Orchestra  
Act 2004**

Public Act 2004 No 20  
Date of assent 5 April 2004  
Commencement see section 2

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Culture and Heritage.**

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**1 Title**

This Act is the New Zealand Symphony Orchestra Act 2004.

**Part 1  
Preliminary provisions****2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Purpose of Act**

The purpose of the Act is to—

- (a) establish the Orchestra as a Crown entity for the purposes of section 7 of the Crown Entities Act 2004;
- (b) set out the principal objectives of the Orchestra and its functions and powers;
- (c) *[Repealed]*
- (d) *[Repealed]*
- (e) repeal the New Zealand Symphony Orchestra Act 1988 and provide that the New Zealand Symphony Orchestra Limited ceases to exist;
- (f) transfer the property, money, and liabilities of the New Zealand Symphony Orchestra Limited to the Orchestra.

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

Section 3(c): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 3(d): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**board** means the board of the Orchestra

**board member** and **member** mean a member of the board of the Orchestra

**commencement day** means the day on which this Act comes into force

**Minister** means the Minister who, under the authority of any warrant, or with the authority of the Prime Minister, is responsible for the administration of this Act

**New Zealand Symphony Orchestra Limited** and **company** mean the company that, immediately before the commencement of this Act, was re-registered under that name under the Companies Act 1993

**Orchestra** means the New Zealand Symphony Orchestra established by section 6

Section 4 **fees framework**: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

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

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

## 5 Act binds the Crown

This Act binds the Crown.

## Part 2

### Establishment, structure, and powers of Orchestra and related matters

#### Subpart 1—Key provisions about establishment of Orchestra

##### *Establishment of Orchestra*

## 6 Orchestra established

(1) This section establishes the Orchestra.

(2) *[Repealed]*

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

## 7 Orchestra is Crown entity

(1) The Orchestra is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) The Crown Entities Act 2004 applies to the Orchestra except to the extent that this Act expressly provides otherwise.

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

*Principal objectives and functions of Orchestra***8 Principal objectives of Orchestra**

The principal objectives of the Orchestra are—

- (a) to provide the public of New Zealand with live and recorded performances of symphonic music performed to an international standard:
- (b) to provide an orchestra that—
  - (i) is highly skilled and artistically imaginative; and
  - (ii) has strong community support:
- (c) to be a leading New Zealand performing arts organisation with a role in the development of a distinctively New Zealand cultural environment:
- (d) to promote and encourage New Zealand musical composition and composers:
- (e) to provide performance opportunities for New Zealand musicians, whether as members of the orchestra or as soloists.

**9 Functions of Orchestra**

The functions of the Orchestra are—

- (a) to ensure that the orchestra presents a broad repertoire of orchestral performance including New Zealand works and recent works:
- (b) to encourage the development of New Zealand musicians:
- (c) to encourage the development of New Zealanders' knowledge and appreciation of orchestral music:
- (d) to develop and expand the audience of the orchestra on a national basis:
- (e) to provide a touring orchestra (which may also include international performances):
- (f) to carry out any other functions consistent with its principal objectives, as agreed to by the Minister after consultation with the Orchestra:
- (g) to co-operate with other institutions and organisations having objectives similar to those of the Orchestra.

**10 Limitation applying to principal objectives and functions**

*[Repealed]*

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

*Powers of Orchestra*

*[Repealed]*

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

**11 Capacity and powers of Orchestra**

*[Repealed]*

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

**Subpart 2—Key provisions about  
governance of Orchestra**

*Board is governing body of Orchestra*

**12 Board of Orchestra**

(1) *[Repealed]*

(2) The board must consist of not fewer than 5 members and not more than 8 members.

(3) In addition to the requirements in section 29 of the Crown Entities Act 2004, the Minister must, in particular, have regard to the need for members to have, among them, an appropriate balance of governance and financial skills, and an awareness of artistic matters, as relevant to the role of the board.

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

Section 12(2): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 12(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**13 Role of board**

*[Repealed]*

Section 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Other provisions relating to governance of  
Orchestra*

**14 Role of Minister**

*[Repealed]*

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

**15 Orchestra to have regard to government policy on matters of general administration**

*[Repealed]*

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

**16 Independence of Orchestra**

The Minister may not give a direction to the Orchestra in relation to cultural matters.

Section 16: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Subpart 3—Key provisions about operation  
of board**

*Collective duties of board members*

**17 Collective duties of board**

- (1) The board, acting collectively, must endeavour to ensure that the total operating costs of the Orchestra do not exceed its total operating revenues.
- (2) Subsection (1) does not limit the collective duties in the Crown Entities Act 2004.

Section 17: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

*Individual duties of board members*

*[Repealed]*

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



**18 Individual duties of board members**

*[Repealed]*

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

*Effect of breach of duties*  
*[Repealed]*

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

**19 Effect of breach of duties**

*[Repealed]*

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

*Financial and accountability provisions*  
*[Repealed]*

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

**20 Funds of Orchestra**

*[Repealed]*

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

**21 Bank accounts**

*[Repealed]*

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

*Powers to invest and borrow*  
*[Repealed]*

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

**22 Restrictions on investments**

*[Repealed]*

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

**23 Restrictions on borrowing***[Repealed]*

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

*Reporting requirements**[Repealed]*

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

**24 Annual report***[Repealed]*

Section 24: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Subpart 4—Provisions relating to interests  
in other bodies and subsidiaries of Orchestra***[Repealed]*

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

*Limits on power of Orchestra to hold shares or  
other interests in other bodies or associations**[Repealed]*

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

**25 Shares in bodies corporate or interests in associations of  
persons***[Repealed]*

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

*Subsidiaries of Orchestra**[Repealed]*

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

## **26 Limits to functions and powers of subsidiaries**

*[Repealed]*

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

### *Remuneration and allowances for directors of subsidiaries*

*[Repealed]*

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

## **27 Remuneration and allowances**

*[Repealed]*

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

### Subpart 5—Protection of names

## **28 Protection of names**

- (1) No person may be incorporated or registered under any enactment or in any other manner using the following names:
  - (a) New Zealand Symphony Orchestra:
  - (b) NZSO:
  - (c) NZ Chamber Orchestra:
  - (d) Symphony New Zealand:
  - (e) National Youth Orchestra:
  - (f) National Orchestra:
  - (g) any other name that so resembles the names in paragraphs (a) to (f) as to be likely to mislead a person.
- (2) No person other than the Orchestra may, either alone or with another person, operate or carry on activities—
  - (a) under a name in subsection (1); or
  - (b) under a name, knowing that it so resembles a name listed in subsection (1) as to be likely to mislead a person.
- (3) A person who breaches subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$2,500.

Section 28(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

**Subpart 6—Transitional provisions***Dissolution of New Zealand Symphony  
Orchestra Limited***29 Dissolution of New Zealand Symphony Orchestra Limited**

- (1) On and from the commencement day,—
- (a) the New Zealand Symphony Orchestra Limited is dissolved; and
  - (b) the term of office of every director of the company expires; and
  - (c) the property belonging to the company vests in the Orchestra; and
  - (d) money payable to or by the company becomes payable to or by the Orchestra; and
  - (e) the liabilities, contracts, engagements, rights, and authorities of the company become the liabilities, contracts, engagements, rights, and authorities of the Orchestra; and
  - (f) proceedings by or against the company may be continued, completed, or enforced by or against the Orchestra.
- (2) No director of the New Zealand Symphony Orchestra Limited is entitled to compensation as a result of the expiry under this section of his or her term of office.
- (3) The Registrar of Companies must remove the name of the New Zealand Symphony Orchestra Limited from the register of companies kept under section 360(1) of the Companies Act 1993.

**30 Certain matters not affected by transfer to Orchestra**

Nothing effected or authorised by this Act—

- (a) is to be regarded as placing the New Zealand Symphony Orchestra Limited, the Crown, the Orchestra, or other person in breach of contract or confidence, or as otherwise making any of them guilty of a civil wrong; or
- (b) is to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or

- (c) is to be regarded as placing the New Zealand Symphony Orchestra Limited, the Crown, the Orchestra, or other person in breach of an enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of property or the disclosure of information; or
- (d) releases a surety wholly or in part from an obligation; or
- (e) invalidates or discharges a contract.

**31 Reference to New Zealand Symphony Orchestra Limited is reference to Orchestra**

On and from the commencement day, a reference to the New Zealand Symphony Orchestra Limited (express or implied) in any enactment (other than this Act), or in any instrument, register, agreement, deed, lease, application, notice, or other document in force immediately before the commencement day, must, unless the context otherwise requires, be read as a reference to the Orchestra.

**32 Taxes and duties**

- (1) For the purposes of the Inland Revenue Acts and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge,—
  - (a) the New Zealand Symphony Orchestra Limited and the Orchestra are the same person; and
  - (b) a transaction entered into by, or an act of, the New Zealand Symphony Orchestra Limited is—
    - (i) entered into by, or an act of, the Orchestra; and
    - (ii) entered into, or performed by, the Orchestra at the time it was entered into, or performed by, the New Zealand Symphony Orchestra Limited.
- (2) *[Repealed]*
- (3) In this section, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

Section 32(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**33 Final report on New Zealand Symphony Orchestra Limited**

- (1) The Orchestra must make a final report of the New Zealand Symphony Orchestra Limited to the Minister as soon as reasonably practicable after the commencement day.
- (2) The Minister must present the report to the House of Representatives as soon as reasonably practicable after receiving it from the Orchestra under subsection (1).
- (3) In this section, **final report** means—
  - (a) a report setting out the information specified in section 41I of the Public Finance Act 1989 on the operations of the New Zealand Symphony Orchestra Limited for the period beginning on 1 July 2003 and ending with the close of the day immediately before the commencement day; and
  - (b) the financial statements of the New Zealand Symphony Orchestra Limited for that period—
    - (i) setting out the information specified in section 41 of the Public Finance Act 1989; and
    - (ii) accompanied by an audit opinion prepared by the Auditor-General in accordance with section 43 of the Public Finance Act 1989.

**34 Further transitional provisions**

Part 5 of Schedule 1 applies to transitional arrangements for the New Zealand Symphony Orchestra Limited and its employees.

## Subpart 7—Repeal and amendments

**35 New Zealand Symphony Orchestra Act 1988 repealed**

The New Zealand Symphony Orchestra Act 1988 is repealed.

**36 Amendments to enactments**

The Acts listed in Schedule 2 are amended in the manner indicated in that schedule.

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## Schedule 1

ss 12, 34

### Administrative provisions applying to board and further transitional provisions

#### Part 1

#### Further provisions about membership of board

*[Repealed]*

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

#### Appointments

*[Repealed]*

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

### 1 Criteria for appointment of board members

*[Repealed]*

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

#### Term of appointment

*[Repealed]*

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

### 2 Term of appointment

*[Repealed]*

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

#### Restrictions on appointment

*[Repealed]*

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

### 3 Disqualification

*[Repealed]*

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

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Part 1—*continued*

Resignation and removal of members

*[Repealed]*

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

**4 Resignation**

*[Repealed]*

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

**5 Removal from office**

*[Repealed]*

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

**6 No entitlement to compensation**

*[Repealed]*

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

Vacancies in board membership

*[Repealed]*

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

**7 Vacancy on board**

*[Repealed]*

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

**8 Effect of vacancy**

*[Repealed]*

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



Part 1—*continued*

Chairperson of board

*[Repealed]*

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

**9 Appointment of chairperson of board**

*[Repealed]*

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

**10 Resignation of chairperson**

*[Repealed]*

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

**11 Chairperson's functions, duties, and powers during vacancy**

*[Repealed]*

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

Acts not to be called into question

*[Repealed]*

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

**12 Validity of members' acts**

*[Repealed]*

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

Remuneration

*[Repealed]*

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

Part 1—*continued***13 Remuneration and allowances***[Repealed]*

Schedule 1 Part 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## Part 2

Provisions relating to operation of board and  
its members*[Repealed]*

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

## Conflict of interest provisions

*[Repealed]*

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

**14 Interest of board members***[Repealed]*

Schedule 1 Part 2 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**15 Obligation to disclose interest***[Repealed]*

Schedule 1 Part 2 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**16 Method of disclosure***[Repealed]*

Schedule 1 Part 2 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**17 Consequences of interest***[Repealed]*

Schedule 1 Part 2 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Part 2—*continued*

**18 Effect of non-compliance with disclosure obligation**

*[Repealed]*

Schedule 1 Part 2 clause 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Use of information

*[Repealed]*

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

**19 Restrictions on use or disclosure of information**

*[Repealed]*

Schedule 1 Part 2 clause 19: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**20 When members may rely on information and advice**

*[Repealed]*

Schedule 1 Part 2 clause 20: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Contracting

*[Repealed]*

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

**21 Method of contracting**

*[Repealed]*

Schedule 1 Part 2 clause 21: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Validity of transactions

*[Repealed]*

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

Part 2—*continued***22 Validity of transactions***[Repealed]*

Schedule 1 Part 2 clause 22: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## Liability of board members and employees

*[Repealed]*

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

**23 Interpretation***[Repealed]*

Schedule 1 Part 2 clause 23: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**24 Protection from liability for members and employees***[Repealed]*

Schedule 1 Part 2 clause 24: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**25 Immunity of board members and employees***[Repealed]*

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

**26 Indemnity for board members and employees***[Repealed]*

Schedule 1 Part 2 clause 26: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**27 Insurance for board members and employees***[Repealed]*

Schedule 1 Part 2 clause 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

### Part 3 Procedures of board

**28 Procedure generally**

*[Repealed]*

Schedule 1 Part 3 clause 28: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**29 Quorum**

*[Repealed]*

Schedule 1 Part 3 clause 29: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**30 Methods of holding meetings**

*[Repealed]*

Schedule 1 Part 3 clause 30: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**31 Notice requirements**

*[Repealed]*

Schedule 1 Part 3 clause 31: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**32 Times and places of general and special meetings**

*[Repealed]*

Schedule 1 Part 3 clause 32: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**33 Who presides at meetings**

*[Repealed]*

Schedule 1 Part 3 clause 33: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**34 Voting at meetings**

*[Repealed]*

Schedule 1 Part 3 clause 34: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Part 3—*continued***35 Unanimous written resolutions***[Repealed]*

Schedule 1 Part 3 clause 35: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## Delegations

*[Repealed]*

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

**36 Delegation by board of its functions, duties, or powers***[Repealed]*

Schedule 1 Part 3 clause 36: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**37 Powers that must not be delegated**

(1) The board must not delegate the power—

(a) *[Repealed]*

(b) to appoint a chief executive:

(c) to acquire or dispose of real property:

(d) to form and register a subsidiary:

(e) to form, or hold shares or interests in, or settle or be or appoint a trustee in relation to, a body corporate or other association of persons:

(f) to borrow money:

(g) to appoint an attorney.

(2) In other respects, section 73 of the Crown Entities Act 2004 applies.

Schedule 1 Part 3 clause 37(1)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 Part 3 clause 37(1)(e): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 Part 3 clause 37(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**38 Effect of delegation***[Repealed]*

Schedule 1 Part 3 clause 38: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Part 4**  
**Employment provisions**

*[Repealed]*

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

**Chief executive of Orchestra**

*[Repealed]*

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

**39 Appointment of chief executive**

*[Repealed]*

Schedule 1 Part 4 clause 39: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**40 Employment of chief executive**

*[Repealed]*

Schedule 1 Part 4 clause 40: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**Employees of Orchestra**

*[Repealed]*

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

**41 Employment of staff**

*[Repealed]*

Schedule 1 Part 4 clause 41: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**42 Personnel policy**

*[Repealed]*

Schedule 1 Part 4 clause 42: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**43 Employees not in service of the Crown**

*[Repealed]*

Schedule 1 Part 4 clause 43: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Part 4—*continued***44 Board members and employees are officials***[Repealed]*

Schedule 1 Part 4 clause 44: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

**45 Superannuation and retiring allowances***[Repealed]*

Schedule 1 Part 4 clause 45: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

## Part 5

## Further transitional provisions

## Transfer of employees

**46 Transfer of employees to Orchestra**

- (1) On the commencement day, every person employed by the New Zealand Symphony Orchestra Limited immediately before the commencement of this Act ceases to be an employee of the New Zealand Symphony Orchestra Limited and becomes an employee of the Orchestra.
- (2) The terms and conditions of employment of each employee to whom subsection (1) refers remain the same as the terms and conditions of his or her employment with the New Zealand Symphony Orchestra Limited immediately before the commencement day, and may be varied in the same manner.

**47 Continuity of employment**

- (1) For the purposes of every enactment, law, determination, agreement, or contract relating to the employment of a transferred employee, the transfer of the employee to the Orchestra from the New Zealand Symphony Orchestra Limited does not, of itself, break the employment of that person and the period of his or her service with the New Zealand Symphony Orchestra Limited is to be regarded as a period of service with the Orchestra.
- (2) A transferred employee is not entitled to receive payment or other benefit solely on the ground that, as a result of the transfer



Part 5—*continued*

of the employee under this Act, the person has ceased to be an employee of the New Zealand Symphony Orchestra Limited.

**48 Protection of terms and conditions of employment**

- (1) The terms and conditions on which a transferred employee is employed must be no less favourable to the transferred employee than those applying to the employee immediately before the commencement date.
- (2) Subclause (1)—
  - (a) continues to apply to the terms and conditions of employment of a transferred employee until they are varied by agreement between the transferred employee and the Orchestra; but
  - (b) does not apply to a transferred employee who, after the transfer, receives any subsequent employment within the Orchestra.

Superannuation

**49 Existing members of Government Superannuation Fund**

- (1) Despite clause 43, a person who, immediately before becoming an employee of the Orchestra, was a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is, for the purpose of that Act, to be treated as if he or she were employed in the Government service so long as that person continues to be an employee of the Orchestra.
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the Orchestra were Government service.
- (3) Nothing in subclause (1) entitles a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956 under subclause (1), **controlling authority** means the board.

**Schedule 2**

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**Amendments to other enactments****Archives, Culture, and Heritage Reform Act 2000 (2000 No 32)***Amendment(s) incorporated in the Act(s).***Broadcasting Act 1989 (1989 No 25)***Amendment(s) incorporated in the Act(s).***Human Rights Act 1993 (1993 No 82)***Amendment(s) incorporated in the Act(s).***Income Tax Act 1994 (1994 No 164)***Amendment(s) incorporated in the Act(s).***Official Information Act 1982 (1982 No 156)***Amendment(s) incorporated in the Act(s).***Ombudsmen Act 1975 (1975 No 9)***Amendment(s) incorporated in the Act(s).***Public Audit Act 2001 (2001 No 10)***Amendment(s) incorporated in the Act(s).***Public Finance Act 1989 (1989 No 44)***Amendment(s) incorporated in the Act(s).*

## **Contents**

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## **Notes**

### **1 *General***

This is a reprint of the New Zealand Symphony Orchestra Act 2004. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/legislation/reprints.shtml> or Part 8 of the *Tables of Acts and Ordinances and Statutory Regulations, and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Criminal Procedure Act 2011 (2011 No 81): section 413  
Crown Entities Act 2004 (2004 No 115): section 200

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