

**Reprint
as at 12 November 2018**



Auckland War Memorial Museum Act 1996

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Commencement	see section 1(2)

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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.
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An Act to provide for the maintenance, management, development, ownership, and funding of the Auckland War Memorial Museum and its contents

1 Short Title and commencement

- (1) This Act may be cited as the Auckland War Memorial Museum Act 1996.
- (2) This Act shall come into force on the day on which it receives the Royal assent.

2 Interpretation

In this Act, unless the context otherwise requires,—

annual plan means the annual plan described in section 22

Auckland Council means the local authority established by section 6(1) of the Local Government (Auckland Council) Act 2009

Auckland Museum Enterprises Limited means the company of that name incorporated under the Companies Act 1955 as a wholly owned subsidiary of the Auckland Institute and Museum Trust Board

Auckland Museum Institute and **Institute** means the learned society and membership body previously called the Auckland Institute and Museum and referred to in section 14

Board means the Auckland Museum Trust Board referred to in section 3

Director means the chief executive of the Museum appointed pursuant to section 17

establishment day means the day 6 weeks after the date on which this Act comes into force

financial year means the period commencing on 1 July and ending with 30 June in any year

Museum means the museum known as the Auckland War Memorial Museum; and includes the operations, collections, and assets belonging to, in the possession of, or undertaken for that museum both present and future

Taumata-a-Iwi means the Maori Committee established pursuant to section 16

War Memorial Sanctuaries means—

- (a) the area known as the First World War Sanctuary, being that space located at the northern end of level 2 of the Auckland War Memorial Museum occupying 4 sides of the open atrium and containing the names of the Auckland Provincial war dead and a shrine in their honour; and
- (b) the area known as the Second World War and Asian Wars Sanctuary and as the Hall of Memories, being that space running east/west at the mid-point of level 2 of the Auckland War Memorial Museum containing the names of the Auckland Provincial war dead of the Second World War, the names of war dead from the Asian Wars, and a shrine in their honour.

Section 2 **Auckland Council**: inserted, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 2 **contributing authorities**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 2 **Electoral College** and **Auckland Museum Electoral College**: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

3 Constitution and powers of Board

- (1) There shall continue to be a body corporate to be called the Auckland Museum Trust Board which shall be the same body corporate as the Trust Board at present deemed to be registered under the provisions of the Charitable Trusts Act 1957 and called the Auckland Institute and Museum Trust Board.
- (2) The Board shall from the establishment day cease to be deemed to be registered under the Charitable Trusts Act 1957; and the Registrar of Incorporated Societies is hereby empowered after the establishment day to amend the Register established under that Act accordingly.
- (3) The Board shall continue to have perpetual succession and a common seal and shall for the purpose of its functions under this Act have and be empowered to exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

- (4) The common seal of the Board shall be judicially noted in all courts and for all purposes.

4 Members of Board

- (1) The Board shall consist of 10 members of whom—
- (a) 5 shall be appointed (and reappointed or replaced in accordance with section 5) by the Auckland Council;
 - (b) 4 shall be appointed (and reappointed or replaced in accordance with section 5) by the Auckland Museum Institute in accordance with section 14;
 - (c) 1 shall be a representative who shall be appointed (and reappointed or replaced in accordance with section 5) by the Taumata-a-Iwi in accordance with section 16.
- (2) The members of the Board appointed pursuant to this section shall be persons who, in the opinion of those appointing them, have the management skills, experience, and professional judgment necessary for the carrying out of the Museum's functions and achievement of the objectives as set out in sections 11 and 12.
- (3) No person who is currently an elected or appointed member of the Auckland Council, the chief executive of the Auckland Council, an employee of the Auckland Council who reports directly to the chief executive, a member or employee of the Institute Council or the Taumata-a-Iwi, or a member of the Museum staff may be appointed or remain a member of the Board.

(4) *[Repealed]*

(5) *[Repealed]*

Section 4(1)(a): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(4): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 4(5): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

5 Term of office of Board members

- (1) Subject to section 6, every Board member shall be appointed for a term of 2 years commencing on the expiry of the previous term of appointment to that office.
- (2) Every member shall be eligible for reappointment from time to time.
- (3) Where the term of appointment of a member expires or ceases that member, unless sooner vacating or deemed to be removed from office pursuant to sec-

tion 6(1), shall continue to hold office by virtue of appointment for the term that has expired until—

- (a) that member is reappointed; or
- (b) a successor to that member is appointed.

(4) *[Repealed]*

(5) *[Repealed]*

Section 5(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(4): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 5(5): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

6 Extraordinary vacancies

- (1) The term of appointment of a Board member shall cease and the vacancy so created shall be an extraordinary vacancy if that member—
 - (a) dies or becomes a member or employee of one of the bodies referred to in section 4(3) or a member of the Museum staff; or
 - (b) is declared bankrupt; or
 - (c) is absent without leave from 2 consecutive meetings of the Board; or
 - (d) resigns office by written notice to the Secretary of the Board (but in that case, if the terms of resignation so permit, may continue to hold office until his or her successor is appointed); or
 - (e) is convicted of an offence punishable by a term of imprisonment of 2 years or more; or
 - (f) becomes subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or becomes a special patient as defined in section 2(1) of that Act; or
 - (g) becomes a person in respect of whom an order is made pursuant to the Protection of Personal and Property Rights Act 1988.
- (2) An extraordinary vacancy shall be filled in the manner in which the appointment to the vacant office was originally made, and the member so appointed shall hold office only for the residue of the term of the vacating member.
- (3) Where an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office vacated, the appointing body may determine that the vacancy shall not be filled.
- (4) The powers of the Board shall not be affected by any vacancy in its membership.

7 Meetings of Board and appointment of chairperson and deputy chairperson

- (1) The first meeting of the Board shall be called by the Director as soon as practicable after the establishment day and shall be chaired by the Director until a chairperson is elected from the members of the Board.
- (2) At the first meeting of the Board the members shall elect from their number a chairperson and a deputy chairperson.
- (3) The chairperson and deputy chairperson shall be elected annually and may stand for re-election.
- (4) The chairperson shall preside at all meetings of the Board at which he or she is present and shall have such other functions, powers, and duties as may be delegated to him or her by the Board from time to time.
- (5) The deputy chairperson shall act in place of the chairperson in any case where the chairperson is absent or for any reason unable to act. In the absence of the chairperson and the deputy chairperson from any meeting the members present shall appoint one of their number to be the chairperson of that meeting.
- (6) Every question before the Board shall be decided in open voting by a majority of the votes recorded on it.
- (7) At any meeting of the Board the person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.
- (8) Notwithstanding the provisions of subsections (4), (5), and (7) or any other provision of this Act, in the case of all meetings held for the purpose of considering and preparing the draft annual plan,—
 - (a) such meetings shall consist of a committee of the Board comprising Board members appointed by the Board of whom not less than half shall be Board members appointed by the Auckland Council:
 - (b) that committee shall appoint as chairperson for such meetings a member who is an appointee of the Auckland Council, and that chairperson shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

Section 7(8)(a): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 7(8)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

8 Procedural rules

- (1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.
- (2) The Board shall, as soon as practicable, adopt such procedural rules governing its affairs and the conduct of its meetings as it considers appropriate.

- (3) Notwithstanding subsection (2), meetings of the Board shall be conducted in public unless good grounds exist for excluding the public.
- (4) Part 7 of the Local Government Official Information and Meetings Act 1987 shall apply to the Board as if the Board were a local authority subject to that Part.

9 Remuneration of members of Board

- (1) Members of the Board may be paid such remuneration as the Board from time to time considers appropriate, but in fixing the level of remuneration the Board shall have regard to the public purpose of its functions and the extent of public funding of its activities.
- (2) Nothing in subsection (1) shall authorise the Board to pay remuneration to any member of the Board in any financial year of a greater amount than is specified in the annual plan adopted for that financial year.

10 Board established for charitable purposes

- (1) The Board and the Institute are deemed to be established exclusively for charitable purposes within New Zealand, and all actions carried out by either of them pursuant to this Act shall be deemed to be carried out exclusively for charitable purposes.
- (2) Any business carried on by the Board or by the Institute is deemed to be carried on exclusively for charitable purposes within New Zealand and not for the pecuniary gain of any person.

11 Objectives

In carrying out its functions under section 12, the Board shall recognise and provide for, in such manner as it considers appropriate, the following:

- (a) the recording and presentation of the history and environment of the Auckland Region, New Zealand, the South Pacific and, in more general terms, the rest of the world:
- (b) conservation of the heritage of the Museum, and of global resources:
- (c) the role of the Museum as a war memorial:
- (d) celebration of the rich cultural diversity of the Auckland Region and its people:
- (e) education which involves and entertains people to enrich their lives and promote the well-being of society:
- (f) the advancement and promotion of cultural and scientific scholarship and research:
- (g) achievement of customer satisfaction by consultation, responsiveness, and continuous improvement:

- (h) leadership through professionalism, innovation, and co-ordination of effort with relevant organisations:
- (i) greater financial self-sufficiency through the prudent operation of compatible revenue-producing and fund-raising activities which supplement public funding:
- (j) providing maximum community benefit from the resources available.

12 Duties, functions, and powers of Board

- (1) Board members shall act at all times in the interests of the Museum rather than in the interests of the body appointing them.
- (2) The duties, functions, and powers of the Board shall be—
 - (a) to assume and continue to hold ownership and possession of the Museum:
 - (b) to exercise trusteeship in accordance with the terms of the respective trusts in respect of all assets ownership of which has heretofore been vested in the Auckland Institute and Museum Trust Board or in the Auckland Institute and Museum or which may in the future be vested in the Board, subject to any Trust:
 - (c) to observe and encourage the spirit of partnership and goodwill envisaged by the Treaty of Waitangi, the implications of mana Maori and elements in the care of Maori cultural property which only Maori can provide:
 - (d) to adequately maintain, manage, and develop the Museum:
 - (e) to take such actions as it considers necessary or desirable to further the objectives set out in section 11:
 - (f) to develop appropriate sources of income additional to funding by the Auckland Council:
 - (g) to consult with the Taumata-a-Iwi on all matters set out in section 16(8), and to take due regard of the advice given:
 - (h) to support the Auckland Museum Institute:
 - (i) to exercise the power of appointment of a Director in accordance with section 17:
 - (j) to establish for the guidance of the Director broad lines of policy consistent with the objectives of the Museum and paragraphs (a) to (i):
 - (k) to delegate, to committees or members of the Board, the Director, or other persons or bodies, such specific duties as the Board considers are best performed by those committees, persons, or bodies:
 - (l) to manage prudently the finances of the Museum.
- (3) The Board shall have such powers, not inconsistent with this Act, as are reasonably necessary for the effective performance of its functions.

- (4) On and from the establishment day, no person or body other than the Board shall be responsible for the maintenance, management, and development of the Museum building, its contents, and assets.

Section 12(2)(f): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

13 Appointment of members by contributing authorities

[Repealed]

Section 13: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

14 Auckland Museum Institute

- (1) There is hereby established, with effect from the establishment day, a learned society and membership body called the Auckland Museum Institute which is hereby declared to be the same body as the unincorporated society at present called the Auckland Institute and Museum.
- (2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, for the purpose of its functions under this Act, have and be empowered to exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.
- (3) The objects of the Institute shall be to—
- (a) function as a learned society:
 - (b) support the Museum in its objectives and functions as specified in section 11 and section 12:
 - (c) affiliate with such learned societies, including the Royal Society of New Zealand, as the Institute may from time to time consider appropriate.
- (4) The Institute shall govern its own affairs through a Council elected in accordance with rules adopted and amended from time to time by the Institute.
- (5) The Institute Council shall call for nominations and exercise on behalf of the Institute the powers of appointment to the Board conferred by sections 4(1)(b), 5, and 6.
- (6) The existing rules of the Institute shall remain in force until amended, except to the extent that they are inconsistent with the provisions of this Act.
- (7) Such of the President, Vice-President, Immediate Past President, and Councilors elected by members of the Auckland Institute and Museum as shall choose to remain in office shall hold office as the Institute Council until a Council is elected pursuant to the provisions of subsection (4).

15 Membership of Auckland Museum Institute

- (1) All persons who on the establishment day were members of the Auckland Institute and Museum shall continue to be members of the Auckland Museum Institute, subject to the provisions of this section.

- (2) The Institute and the Board shall recognise and give effect to such rights as were associated with life memberships and honorary life memberships of the Auckland Institute and Museum before the commencement of this Act.
- (3) The Institute's rule may provide for both individual and corporate membership and for classes of membership.
- (4) The Board shall grant borrowing rights to the Museum's library to life members of the Institute and such other members as may contribute by specific subscription to the upkeep of the library. Borrowing rights shall be to such materials and on such terms and conditions as the Board from time to time determines, and the Board may, in the event of abuse of those rights by any member, withhold or withdraw such rights.

16 Taumata-a-Iwi

- (1) There shall be a Maori Committee known as the Taumata-a-Iwi consisting of not less than 5 persons appointed by the Board.
- (2) Each appointee to the Taumata-a-Iwi shall hold office for such period and on such terms as the Board shall in each case determine.
- (3) The first appointments to the Taumata-a-Iwi under subsection (1) shall be made as soon as is practicable after establishment day.
- (4) No person who is a member of the Museum staff may be appointed or remain a member of the Taumata-a-Iwi.
- (5) The Taumata-a-Iwi shall exercise the powers of appointment to the Board conferred by sections 4(1)(c), 5, and 6.
- (6) The Taumata-a-Iwi shall regulate its own proceedings and shall, as soon as practicable, adopt such procedural rules governing its affairs and the conduct of its meetings as it considers appropriate.
- (7) Members of the Taumata-a-Iwi may be paid such remuneration as the Board considers appropriate, provided that such payments to any member in any financial year shall not exceed the amount specified for that purpose in the annual plan adopted for that financial year.
- (8) To assist the Board to ensure that the Board's policies in relation to the matters set out in paragraphs (a) to (d) accord properly with Maori values as well as matters provided for in the Treaty of Waitangi, the Taumata-a-Iwi shall review proposed policies and make recommendations to the Board in relation to those matters:
 - (a) custodial policies, and guardianship of all Maori taonga of whatever kind and tribal source:
 - (b) staffing policies, including taking affirmative action in recruitment and training programmes, which will lead Maori people into professional careers in New Zealand's bicultural museums:

- (c) display policies, including presentation of Maori taonga to the public in a culturally appropriate and informative manner:
 - (d) development policies, including protection of both the substance and status of Maori taonga in any Museum development plan.
- (9) The Taumata-a-Iwi shall give advice on all matters of Maori protocol within the Museum and between the Museum and the Maori people at large.

17 Director

- (1) The Board shall appoint a Director who shall be the chief executive of the Museum.
- (2) The Board shall, in making any appointment under subsection (1), have regard to the need to appoint a person who—
- (a) can discharge the specific responsibilities placed on the appointee; and
 - (b) will imbue the employees of the Museum with a spirit of service to the community; and
 - (c) will promote efficiency in the Museum; and
 - (d) will be a responsible manager; and
 - (e) will maintain appropriate standards of integrity and conduct among the employees of the Museum; and
 - (f) will ensure that the Museum is a good employer; and
 - (g) will promote equal employment opportunities.
- (3) The Director shall be appointed for a term of not more than 5 years, but shall be eligible for reappointment from time to time.

18 Responsibilities of Director

The Director shall be responsible to the Board for—

- (a) employing, on behalf of the Board, staff of the Museum and negotiating their terms and conditions of employment:
- (b) implementing the decisions of the Board and ensuring that the affairs of the Board are conducted in a transparent and accountable manner:
- (c) providing services and advice to members of the Board, the Taumata-a-Iwi, and the Institute Council, and consulting with the Taumata-a-Iwi on all matters set out in section 12(2)(c):
- (d) ensuring the effective, efficient, and economic management of the activities and planning of the Board in accordance with the objectives set out in section 11:
- (e) ensuring that obligations imposed by the Treaty of Waitangi as they affect the Museum are taken into account:
- (f) carrying out such other functions as may be delegated to him or her by the Board:

- (g) maintaining liaison with the Auckland Council.

Section 18(g): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

19 General employment principles

- (1) The Board shall adopt, and the Director shall implement, a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this section, 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 people; and
 - (ii) the employment requirements of Maori people; 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.
- (3) In addition to the requirements specified in subsections (1) and (2), the Board and the Director shall ensure that all employees maintain proper standards of integrity, conduct, and concern for the public interest.

20 Transfer of existing employees

- (1) All persons who, immediately before the establishment day, were employed by the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board, shall on the establishment day transfer to or continue in the employment of the Board on the same terms and conditions, including preservation of continuity of service and the rights which arise in respect of length of service.
- (2) For the avoidance of doubt, it is declared that no person to whom subsection (1) applies shall be entitled to receive any payment or other benefit by reason only of the operation of subsection (1).

21 Continuity of Board's rights and obligations

- (1) Subject to subsection (3), ownership and possession of the Museum shall, by operation of this Act, vest or continue to vest in the Board on and after the establishment day.
- (2) On and after the establishment day the Board shall have or continue to have, and be responsible for, all rights and obligations which had previously reposed in the Auckland Institute and Museum, its Council, or the Auckland Institute and Museum Trust Board or Auckland Museum Enterprises Limited in respect of the property and rights described in subsection (1).
- (3) Every appointment of the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board as beneficiary, trustee, custodian, or guardian of any collections, gifts, bequests, or cultural property of any kind, or as agent or as a fiduciary in any capacity, whether by will or other instrument or by statute, shall on the establishment day vest or continue to vest in and be deemed to be an appointment of the Board; and the Board shall have the rights, powers, capacities, authorities, duties, liabilities, and obligations of the Auckland Institute and Museum Trust Board and Auckland Institute and Museum in respect of and arising from every such appointment, but this provision shall not operate to prevent—
 - (a) the Institute from acquiring and holding property and other rights after the establishment day in support of its objectives; or
 - (b) a gift being made to and received beneficially by the Institute—
 - (i) after the establishment day, in the case of *inter vivos* gifts; or
 - (ii) by will dated after the establishment day in the case of testamentary gifts.
- (4) The vesting of all property or rights of any nature, whether tangible or intangible, in the Board or the Institute pursuant to this section of this Act shall not be treated as a disposition of property for the purposes of the Estate and Gift Duties Act 1968, or as a conveyance for the purposes of the Stamp and Cheque Duties Act 1971, or as a disposal or disposition for the purposes of sections EE 44 to EE 52 of the Income Tax Act 2007.
- (5) Any income or gain derived by Auckland Museum Enterprises Limited in respect of the vesting of property or rights of any nature, whether tangible or intangible, in the Board or the Institute shall not be treated as assessable income for the purposes of the Income Tax Act 2007.
- (6) The vesting of all property or rights of any nature, whether tangible or intangible, in the Board or the Institute pursuant to this section shall be charged with goods and services tax at the rate of 0%.
- (7) Nothing in this Act shall—

- (a) have the effect of placing the Board, the Institute, or any other person in breach of contract or breach of trust or otherwise in breach of any civil obligation; or
 - (b) give rise to a right for any person, including the Crown, to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
 - (c) release any surety (including the Crown) wholly or in part from all or any obligation; or
 - (d) invalidate or discharge any contract or security (including any contract or security to which the Crown is a party); or
 - (e) place the Auckland Institute and Museum, the Auckland Institute and Museum Trust Board, the Board, or any other person (including the Crown) in breach of any contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or disclosure of any information.
- (8) The resolutions, acts, and omissions of the Council of the Auckland Institute and Museum and the Auckland Institute and Museum Trust Board before the establishment day shall be deemed to be resolutions, acts, and omissions of the Auckland Museum Trust Board.

Section 21(4): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Section 21(5): amended, on 1 April 2008 (effective for 2008–09 income year and later), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

22 Annual plan

- (1) In this section, the term **the committee** means the committee of the Board constituted under section 7(8).
- (2) The committee shall prepare, on behalf of the Board, for each financial year a draft annual plan, which shall outline in particular terms for the financial year to which the plan relates, and in general terms for each of the following 2 financial years,—
- (a) subject to section 11, the intended significant policies and objectives of the Board; and
 - (b) the nature and scope of the significant activities to be undertaken; and
 - (c) the performance targets and other measures by which performance may be judged in relation to the objectives; and
 - (d) the indicative costs of the activities of the Board; and
 - (e) the sources of funds for those activities; and
 - (f) the details of any proposed charges to be made for access to any part or parts or service or services of the Museum; and

- (g) the indicative amount of the levy which is proposed under section 23; and
- (h) the maximum remuneration payable by the Board during the financial year to—
 - (i) any member of the Board, pursuant to section 9(2); and
 - (ii) any member of the Taumata-a-Iwi, pursuant to section 16(7).
- (3) During the preparation of, and before the publication of the draft annual plan, the chairperson of the committee shall meet with a person appointed by the Auckland Council for the purpose as often as may be necessary to determine if aspects of the annual plan, including the amount of the proposed levy, should be referred to a meeting or meetings of the committee and the Auckland Council, either jointly or separately, for consideration before the draft annual plan is published.
- (4) A draft annual plan under this section shall include an explanation of any significant changes between the policies, objectives, activities, and performance targets proposed in the draft annual plan and those specified in the annual plan adopted for the immediately preceding financial year.
- (5) The draft annual plan shall, immediately after it has been prepared to the satisfaction of the committee, be reported to the Board, and be made available to the general public and forwarded to the Auckland Council, the Taumata-a-Iwi, and the Institute Council.
- (6) Any person, including the Auckland Council, the Taumata-a-Iwi, and the Institute Council, may within 1 month after publication of the draft annual plan, make a written submission to the Board in relation to any matters contained in the draft annual plan.
- (7) *[Repealed]*
- (8) The Board shall give to every person making a submission under subsection (6) a reasonable opportunity to appear and be heard in relation to that submission.
- (9) Subject to section 8(3), every meeting of the Board (or of any committee of the Board) at which submissions are heard or at which the Board deliberates on the proposed annual plan shall be open to the public.
- (10) After considering the submissions and making such modifications to the draft annual plan as the Board may consider appropriate in the light of the submissions, the Board shall refer the draft annual plan to the Auckland Council for approval of the levy.
- (11) If the Board and the Auckland Council cannot reach agreement on the amount of the levy, the dispute shall be referred to an independent arbitrator appointed by them both, (or by the Minister of Local Government if they are unable to agree on the person to be appointed) who will determine the levy taking into account the minimum obligations placed on the Board by this Act and the sub-

missions of both parties and the levy so determined shall be the levy to be made for that financial year under section 23(1).

- (12) Every determination pursuant to subsection (11) of this section shall be made in time for the Board to comply with its responsibilities under subsection (5) of section 23 on or before 30 April immediately preceding the commencement of the financial year to which the levy relates and it shall be incumbent upon the committee, the Auckland Council and the Board to comply with the requirements of subsections (2) to (11) of this section by such dates as will enable the requirements of this subsection to be met.
- (13) After approval of the levy (either in the amount stipulated in the draft annual plan referred to the Auckland Council under subsection (10) or in such other amount as may subsequently be agreed upon between the Board and the Auckland Council) or determination of the levy pursuant to subsection (11), the Board shall adopt the draft annual plan as referred to the Auckland Council under subsection (10), subject to any modifications required by any difference in the amount of the levy agreed with the Auckland Council or determined pursuant to subsection (11).
- (14) The annual plan shall be adopted by the Board no later than 30 April immediately preceding the commencement of the financial year to which the annual plan applies.
- (15) Where the Board adopts an annual plan under this section it shall—
 - (a) make that annual plan available for public inspection at its office; and
 - (b) within 20 days of its adoption, send copies of the annual plan to the Auckland Council, the Taumata-a-Iwi, and the Institute Council.

Section 22(3): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(5): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(6): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(7): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(10): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(11): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(12): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(13): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 22(15)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

23 Contributions by Auckland Council to Museum funding

- (1) Subject to the provisions of subsection (7) and section 25, the Board may, for each financial year, for the purposes of funding its activities (including maintenance, operations, and development) under this Act, by resolution make a levy against the Auckland Council of such amount and in such manner as is authorised or is required by this Act.
- (2) For the purposes of this section—
 - (a) the capital value of a rating unit within the district of the Auckland Council must be treated as being the capital value of the unit at a date as near as is reasonably practicable to the last day of the financial year that preceded by 1 year the financial year in respect of which the levy will be made:
 - (b) the population of the district of the Auckland Council shall be that which is ascertained or calculated by the Government Statistician as at a date as near as is reasonably practicable to the last day of the financial year preceding by 1 year the financial year in respect of which the levy is to be made, and a certificate by the Government Statistician shall be conclusive evidence in that respect.
- (3) *[Repealed]*
- (4) The total amount of the levy shall not exceed in any year 1/50 c in the dollar on the total capital value of rating units in the Auckland Council's district plus 2.5 c per person of the population of the Auckland Council's district.
- (5) The Board shall, in the resolution referred to in subsection (1), or, if the levy is fixed by arbitration, in a separate resolution for that purpose, fix the amount to be levied against the Auckland Council, and a copy of the resolution shall be forwarded to the Auckland Council on or before 30 April preceding the financial year in respect of which the levy is made. The relevant amount so levied shall be due and payable by the Auckland Council on 1 July next following, and shall be paid out of the general revenues of the Auckland Council.
- (6) *[Repealed]*
- (7) The Board shall not make any levy under this section until the annual plan for that financial year has been adopted under section 22(14).

Section 23 heading: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(2)(a): substituted, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 23(2)(a): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(2)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(3): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(4): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(4): amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 23(5): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 23(5): amended, on 1 July 2003, by section 137(1) of the Local Government (Rating) Act 2002 (2002 No 6).

Section 23(6): repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

24 Separate rate

[Repealed]

Section 24: repealed, on 28 June 2006, by section 14 of the Local Government (Rating) Amendment Act 2006 (2006 No 28).

25 Public access to War Memorial

Notwithstanding any other provision of this Act but without limiting its powers in any other respect, the Board shall ensure that free public access is available to the memorial sanctuaries during such hours as the Museum is open to the public.

26 Members of Board and Institute Council not personally liable

- (1) No member of the Board or the Institute Council shall be personally liable for any act done or default made by the Board or by the Institute Council or any member thereof in good faith in the course of the operations of the Board or Institute Council.
- (2) No person shall incur personal liability as a result of having joined in or acted on any resolution of the Auckland Institute and Museum or the Council of the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board made before the establishment day in any circumstances wherein such person would not incur personal liability in joining in or acting on any resolution of the Board.

27 Audit and accounts

- (1) An auditor shall be appointed by the Board on the recommendation of the Auckland Council.
- (2) The provisions of section 223F of the Local Government Act 1974 shall apply to the Board as if it were a local authority constituted under that Act and as if that section were not repealed by the Local Government Act 2002.

Section 27(1): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 27(2): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

28 Annual report

- (1) The Board shall prepare and adopt, in respect of each financial year, a report assessing the performance of the Board against the policies, objectives, activities, performance targets, indicative costs, and sources of funds specified in the annual plan adopted in respect of that financial year under section 22.
- (2) The report adopted under subsection (1) shall contain audited financial statements for the year consisting of—
 - (a) a statement of financial position; and
 - (b) an overall operating statement; and
 - (c) a statement of cash flows; and
 - (d) such other statements as may be necessary to fairly reflect the financial position of the Board, the resources available to it, and the financial results of its operations.
- (3) The report adopted under subsection (1) shall contain—
 - (a) the auditor's report—
 - (i) on the financial statements specified in subsection (2); and
 - (ii) on the performance targets and other measures by which performance has been judged in relation to the objectives; and
 - (b) such other information as is necessary to enable an informed assessment of the operations of the Board for the financial year and the projected performance of the Board for the financial year as set out in the plan adopted in respect of the financial year under section 22.
- (4) The report adopted under subsection (1) shall be adopted before the end of the fifth month after the close of the financial year to which it relates.
- (5) Where the Board adopts a report under this section, it shall—
 - (a) make that report available for public inspection at its office; and
 - (b) within 20 working days of its adoption, send copies of the report to the Auckland Council and the Institute Council.

Section 28(5)(b): amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

29 Auckland Council to report on involvement

The Auckland Council must include in its annual report prepared under section 98 of the Local Government Act 2002, in respect of each financial year, information concerning its involvement with, and its financial contributions to, the Board.

Section 29 heading: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Section 29: amended, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

30 Registers

- (1) The Registrar-General of Land, the Registrar of Deeds, or any other person charged with the keeping of any books or registers is not obliged solely by reason of this Act to change the name of the Board in those books or registers or in any document.
- (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the Board,—
 - (a) executed or purporting to be executed by the Board; and
 - (b) relating to the property, rights, and appointments defined in section 21(1), (2), and (3); and
 - (c) containing a recital that the name of the Board has been changed by virtue of this Act or, as the case may require, that the property, rights, or appointments concerned have vested in the Board by virtue of this Act—
 shall be, in the absence of proof to the contrary, sufficient evidence that the name of the Board has been changed or that the property, rights, or appointments referred to in that instrument is or are vested in the Board.
- (3) Except as provided in this section, nothing in this Act derogates from the provisions of the Land Transfer Act 2017.
- (4) The Registrar of a register relating to property or rights which is transferable only in books kept by a company or in a manner directed by or under an Act shall, on written application under the seal of the Board, register the Board in its new name as the holder of that property or right.

Section 30(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 30(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

31 Repeals and revocations

- (1) The following enactments are hereby repealed:
 - (a) Auckland Museum Endowment Act 1882:
 - (b) Auckland War Memorial Museum Maintenance Act 1979:
 - (c) Auckland War Memorial Museum Maintenance Amendment Act 1980:
 - (d) Local Authorities (Members' Interests) Amendment Act 1988:
 - (e) *Amendment(s) incorporated in the Act(s).*
- (2) The following orders are hereby revoked:

- (a) Auckland War Memorial Museum Maintenance Amendment Act Commencement Order 1980 (SR 1980/260 and *Gazette* 1980 Vol III, p 4039):
- (b) Part XII of the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette* 1989 Vol III, p 2271).

32 Amendment to other Acts

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

33 Interim control

Between the coming into force of this Act and the establishment day, the Council of the Auckland Institute and Museum and the Auckland Institute and Museum Trust Board shall continue to exercise and be responsible for their respective responsibilities concerning the Auckland War Memorial Museum and its contents under the Auckland War Memorial Museum Maintenance Act 1979, as if that Act had not been repealed.

Schedule
Representatives of contributing authorities
[Repealed]

s 13(2)

Schedule: repealed, on 1 November 2010, by section 113(1) of the Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37).

Local Government (Rating) Act 2002

Public Act	2002 No 6
Date of assent	30 March 2002
Commencement	see section 2

1 Title

This Act is the Local Government (Rating) Act 2002.

Part 1

Preliminary and key provisions

Subpart 1—Preliminary provisions

2 Commencement

- (1) Section 137(1), so far as it relates to the item relating to section 122ZAA of the Local Government Act 1974 in Schedule 5, comes into force on the day after the date on which this Act receives the Royal assent.
- (2) The following provisions come into force on the day after the date on which this Act receives the Royal assent, but only for the purpose of rating in a financial year that begins on or after 1 July 2003:
 - (a) section 11, so far as it relates to district valuation rolls; and
 - (b) section 137(1), so far as it relates to—
 - (i) Schedule 4; and
 - (ii) items relating to the Rating Valuations Regulations 1998 in Schedule 5.
- (3) The following provisions come into force on 30 April 2003:
 - (a) section 11, so far as it relates to rating information databases; and
 - (b) sections 27 to 36.
- (4) The rest of this Act comes into force on 1 July 2003.

Part 5
Replacement of rates and miscellaneous matters

Subpart 2—Miscellaneous matters

Amendments, savings, repeals of other enactments, and transitional provisions

137 Amendments to other enactments

- (1) The Acts and regulations specified in Schedules 4 and 5 are amended in the manner indicated in those schedules.
- (2) However, those Acts and regulations continue in force as if they had not been amended to the extent necessary for the levying and collection of rates made or levied for the financial year ending on 30 June 2003 or a previous financial year.

Reprints notes

1 *General*

This is a reprint of the Auckland War Memorial Museum Act 1996 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*

Land Transfer Act 2017 (2017 No 30): section 250

Local Government (Auckland Transitional Provisions) Act 2010 (2010 No 37): section 113(1)

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Local Government (Rating) Amendment Act 2006 (2006 No 28): section 14

Local Government (Rating) Act 2002 (2002 No 6): section 137(1)