

New Zealand Symphony Orchestra Act 2004

Public Act 2004 No 20
Date of assent 5 April 2004

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The Parliament of New Zealand enacts as follows:

- 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)
- (d)
- (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.

Paragraph (a) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Paragraphs (c) and (d) were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).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

fees framework*[Repealed]*

fees framework: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

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 reregistered under that name under the Companies Act 1993

Orchestra means the New Zealand Symphony Orchestra established by section 6

statement of intent*[Repealed]*

statement of intent: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

subsidiary*[Repealed]*

subsidiary: this definition was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

[Repealed]

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)

Subsection (2) was repealed, as from 25 January 2005, by section 200 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 was substituted, as from 25 January 2005, by section 200 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]

Sections 10 and 11 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Powers of Orchestra

11 Capacity and powers of Orchestra

[Repealed]

Sections 10 and 11 were repealed, as from 25 January 2005, by section 200 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)

(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.

Subsection (1) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsection (2) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “(including the chairperson) appointed by the Minister”.

Subsection (3) was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13 Role of board

[Repealed]

Sections 13 to 15 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Other provisions relating to governance of Orchestra

14 Role of Minister

[Repealed]

Sections 13 to 15 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

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

[Repealed]

Sections 13 to 15 were repealed, as from 25 January 2005, by section 200 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 was substituted, as from 25 January 2005, by section 200 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 was substituted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

*Individual duties of board members***18 Individual duties of board members**

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

*Effect of breach of duties***19 Effect of breach of duties**

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

*Financial and accountability provisions***20 Funds of Orchestra**

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

21 Bank accounts

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Powers to invest and borrow

22 Restrictions on investments

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

23 Restrictions on borrowing

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Reporting requirements

24 Annual report

[Repealed]

Sections 18 to 24 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

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

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

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

**25 Shares in bodies corporate or interests in associations of
persons**

[Repealed]

Sections 25 to 27 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Subsidiaries of Orchestra

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

26 Limits to functions and powers of subsidiaries*[Repealed]*

Sections 25 to 27 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Remuneration and allowances for directors of subsidiaries

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

27 Remuneration and allowances*[Repealed]*

Sections 25 to 27 were repealed, as from 25 January 2005, by section 200 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 summary conviction to a fine not exceeding \$2,500.

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)
- (3) In this section, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

Subsection (2) was repealed, as from 25 January 2005, by section 200 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.

Schedule 1

ss 12, 34

Administrative provisions applying to board and further transitional provisions

1

Further provisions about membership of board

[Repealed]

The heading to Part 1 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Appointments

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1 Criteria for appointment of board members

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Term of appointment

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2 Term of appointment

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Restrictions on appointment

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

3 Disqualification

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Resignation and removal of members

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4 Resignation

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

5 Removal from office

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

6 No entitlement to compensation

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Vacancies in board membership

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

7 Vacancy on board

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

8 Effect of vacancy

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Chairperson of board

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

9 Appointment of chairperson of board

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

10 Resignation of chairperson

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

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

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Acts not to be called into question

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

12 Validity of members' acts

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

1—*continued*

Remuneration

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

13 Remuneration and allowances

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2

Provisions relating to operation of board and its members

[Repealed]

The heading to Part 2 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Conflict of interest provisions

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

14 Interest of board members

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Clause 14(1)(d) was to be amended, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3) by substituting the words “civil union partner, or de facto partner” for the words “or partner”. However, this amendment appears to be redundant as clause 14 had already been repealed, see above.

15 Obligation to disclose interest

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—continued

16 Method of disclosure

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

17 Consequences of interest

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

18 Effect of non-compliance with disclosure obligation

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Use of information

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

19 Restrictions on use or disclosure of information

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

20 When members may rely on information and advice

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Contracting

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—*continued*

21 Method of contracting

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Validity of transactions

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

22 Validity of transactions

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Liability of board members and employees

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

23 Interpretation

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

24 Protection from liability for members and employees

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

25 Immunity of board members and employees

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

2—*continued*

26 Indemnity for board members and employees

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

27 Insurance for board members and employees

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3

Procedures of board

28 Procedure generally

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

29 Quorum

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

30 Methods of holding meetings

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

31 Notice requirements

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

32 Times and places of general and special meetings

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

3—*continued*

33 Who presides at meetings

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

34 Voting at meetings

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

35 Unanimous written resolutions

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Delegations

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

36 Delegation by board of its functions, duties, or powers

[Repealed]

Clauses 1 to 36 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

37 Powers that must not be delegated

- (1) The board must not delegate the power—
 - (a)
 - (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.

3—*continued*

Paragraph (a) was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Paragraph (e) was amended, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115) by omitting the words “under section 25”.

Subclause (2) was inserted, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

38 Effect of delegation

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4

Employment provisions

[Repealed]

The heading to Part 4 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Chief executive of Orchestra

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

39 Appointment of chief executive

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

40 Employment of chief executive

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Employees of Orchestra

[Repealed]

This heading was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

4—*continued*

41 Employment of staff

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

42 Personnel policy

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

43 Employees not in service of the Crown

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

44 Board members and employees are officials

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

45 Superannuation and retiring allowances

[Repealed]

Clauses 38 to 45 were repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

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

5—continued

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 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

5—*continued*

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

s 36

Amendments to other enactments

Archives, Culture, and Heritage Reform Act 2000 (2000 No 32)

Omit from the Schedule the item that relates to the New Zealand Symphony Orchestra Act 1988.

Broadcasting Act 1989 (1989 No 25)

Repeal section 97.

Human Rights Act 1993 (1993 No 82)

Omit from Part 1 of Schedule 3 the item that relates to the New Zealand Symphony Orchestra Act 1988.

Income Tax Act 1994 (1994 No 164)

Omit from Schedule 18 the item "New Zealand Symphony Orchestra Limited".

Official Information Act 1982 (1982 No 156)

[Repealed]

The item relating to the Official Information Act 1982 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Ombudsmen Act 1975 (1975 No 9)

[Repealed]

The item relating to the Ombudsmen Act 1975 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Public Audit Act 2001 (2001 No 10)

Omit from Part 1 of Schedule 4 the item that relates to the New Zealand Symphony Orchestra Act 1988.

Public Finance Act 1989 (1989 No 44)

[Repealed]

The item relating to the Public Finance Act 1989 was repealed, as from 25 January 2005, by section 200 Crown Entities Act 2004 (2004 No 115).

Legislative history

10 December 2002	Introduction (Bill 25-1)
1 April 2003	First reading and referral to Government Administration Committee
2 September 2003	Reported from Government Administration Committee (Bill 25-2)
30 March 2004	Second reading, committee of the whole House, third reading
