

QUEEN ELIZABETH THE SECOND ARTS COUNCIL OF NEW ZEALAND BILL

EXPLANATORY NOTE

THE purpose of this Bill is to establish the Queen Elizabeth the Second Arts Council of New Zealand.

The Bill is introduced as a consequence of the gracious agreement of Her Majesty to accept, in commemoration of the Royal Visit, a gift from the people of New Zealand which could be utilised for the benefit and in the interests of all the people of New Zealand.

Clause 3 constitutes the Arts Council.

Clause 4 provides for membership. There will be nine persons appointed by the Governor-General, two Permanent Heads of State Departments, and the Director-General of the Broadcasting Corporation.

Clause 5 provides that the appointed members will be appointed for a term of three years but that the first appointed members will retire in rotation.

Clause 6 provides for extraordinary vacancies in the membership of the Council.

Clause 7 provides for the appointment of a Chairman. He will be appointed as such by the Governor-General for a term of three years.

Clause 8 provides for the appointment of a Deputy Chairman. He will be elected each year by members of the Council.

Clause 9 makes provisions with respect to meetings of the Council. The Council is required to hold at least four meetings in each financial year.

Clause 10 provides for the appointment by the Council of an executive committee and of special committees.

Clause 11 provides that acts of the Council shall not be invalid because of vacancies in the membership, defects in appointments of members, or failure to hold sufficient meetings.

Clause 12 prescribes the functions of the Council which are generally to foster and encourage the arts and to foster and maintain public interest in the arts.

Clause 13 gives the Council the powers necessary to exercise its functions.

Clause 14 empowers the Council to make loans for specific purposes.

Clause 15: The effect of the amendments proposed by this clause is that the Council, in respect of contracts entered into by it is made a public body within the meaning of the Public Bodies Contracts Act 1959 and will be subject to the Local Authorities (Members' Contracts) Act 1954.

Clause 16 empowers the Council to make rules for the purpose of carrying out its work.

Clause 17 provides for the appointment of officers and employees.

Clause 18 authorises the making of grants to the Council by local authorities and other persons.

Clause 19 specifies the money which is payable to the funds of the Council.

Clause 20 provides for unauthorised expenditure.

Clause 21 provides for the investment of funds of the Council.

Clause 22 provides that funds of the Council shall be banked.

Clause 23 provides that the Council shall not borrow without the authority of the Minister of Finance.

Clause 24 provides for the keeping of proper accounts.

Clause 25 exempts transactions whereby the Council acquires property from duty and also exempts the Council from payment of income tax.

Clause 26 provides for an annual report by the Council.

Clause 27 provides for the payment of travelling allowances.

Clause 28 exempts members of the Council from personal liability in respect of acts done in good faith on behalf of the Council.

Clause 29 transfers the assets and liabilities of the Arts Advisory Council to the Arts Council.

Hon. Sir Léon Götz

QUEEN ELIZABETH THE SECOND ARTS COUNCIL
OF NEW ZEALAND

ANALYSIS

| | |
|---|--|
| Title | 15. Contracts of Council and members |
| Preamble | 16. Rules of Council |
| 1. Short Title and commencement | |
| 2. Interpretation | <i>Officers of the Council</i> |
| | 17. Appointment of officers |
| <i>The Council</i> | <i>Financial Provisions</i> |
| 3. The Queen Elizabeth the Second Arts Council of New Zealand | 18. Grants to Council |
| 4. Membership of Council | 19. Funds of the Council |
| 5. Terms of office of members | 20. Unauthorised expenditure |
| 6. Extraordinary vacancies | 21. Investment of funds |
| 7. Chairman of Council | 22. Money to be banked |
| 8. Deputy Chairman of Council | 23. Borrowing powers |
| 9. Meetings of Council | 24. Accounts |
| 10. Executive committee, special committees, and delegation of powers | 25. Exemption from stamp duty, gift duty, and taxes |
| 11. Proceedings of Council not affected by certain irregularities | 26. Annual report |
| | 27. Travelling allowances |
| <i>Functions and Powers of Arts Council</i> | <i>Miscellaneous Provisions</i> |
| 12. Functions of the Council | 28. Members of Council not personally liable |
| 13. Powers of the Council | 29. Certain assets and liabilities to become assets and liabilities of the Council |
| 14. Loans and endowments | |

A BILL INTITULED

5 An Act to constitute a body to encourage, foster, and promote the practice and appreciation of the arts in New Zealand to be known as the Queen Elizabeth the Second Arts Council of New Zealand and to make provision with respect to the Council

WHEREAS Her Majesty Elizabeth the Second, by the Grace of God of the United Kingdom, New Zealand and Her Other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith, has graciously agreed to accept a gift from the people of New Zealand to commemorate the Royal Visit in the year nineteen hundred and sixty-three: And whereas the gift is to take the form of the constitution of a body to encourage, foster, and promote the practice and appreciation of the arts in New Zealand, to be known, in accordance with the gracious approval of Her Majesty heretofore duly given, as the Queen Elizabeth the Second Arts Council of New Zealand: And whereas it is desirable to make provision accordingly: 5 10

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 15

1. Short Title and commencement—(1) This Act may be cited as the Queen Elizabeth the Second Arts Council of New Zealand Act 1963.

(2) This Act shall come into force on a date to be fixed for the commencement thereof by the Governor-General by Proclamation. 20

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

“Appointed member” means a member of the Council appointed under paragraph (a) of subsection (1) of section 4 of this Act: 25

“Council” or “Arts Council” means the Queen Elizabeth the Second Arts Council of New Zealand established by this Act: 30

“Minister” means the Minister of Internal Affairs.

The Council

3. The Queen Elizabeth the Second Arts Council of New Zealand—(1) There is hereby established a Council to be called The Queen Elizabeth the Second Arts Council of New Zealand. 35

(2) The Arts Council shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring, holding, and disposing of real and personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may do and suffer. 40

4. Membership of Council—(1) The Arts Council shall consist of—

- (a) Nine persons appointed by the Governor-General on the recommendation of the Minister:
- 5 (b) The Secretary for Internal Affairs:
- (c) The Director of Education:
- (d) The Director-General of Broadcasting.

(2) No person, by reason only of his being a member of the Council or of any committee appointed by the Council,
10 shall be deemed to be employed in the State services for the purposes of the State Services Act 1962 or in the Government service for the purposes of the Superannuation Act 1956.

5. Terms of office of members—(1) Except as otherwise provided by this Act, the appointed members of the Council
15 shall be appointed for a term of three years, but may from time to time be reappointed.

(2) Three of the first appointed members shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-five, three of those members shall
20 be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-six, and the remaining three (including the Chairman) shall be appointed for a term expiring with the thirty-first day of March, nineteen hundred and sixty-seven.

25 (3) Notwithstanding anything to the contrary in this Act, every appointed member of the Council, unless he sooner vacates his office under section 6 of this Act, shall continue in office until his successor comes into office.

6. Extraordinary vacancies—(1) Any appointed member
30 may at any time be removed from office by the Governor-General for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by written notice to the Minister.

35 (2) If any appointed member dies or resigns, or is removed from or vacates office, his office shall become vacant and the vacancy shall be deemed to be an extraordinary vacancy.

(3) An extraordinary vacancy shall be filled in the manner
40 in which the appointment to the vacant office was originally made.

(4) Every appointed member shall vacate his office if he is absent from three consecutive meetings of the Council without the leave of the Council.

(5) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

7. Chairman of Council—(1) One appointed member of the Council shall be appointed as Chairman of the Council 5
by the Governor-General on the recommendation of the Minister.

(2) Except as otherwise provided in this Act, the Chairman shall be appointed as such for a term of three years but may from time to time be reappointed to that office: 10

Provided that the Chairman shall hold office as such only for the period he remains a member of the Council.

8. Deputy Chairman of Council—(1) At the first meeting of the Council and thereafter at the first meeting of the Council held after the first day of January in each year, and also 15
at the first meeting of the Council held after the occurrence of a vacancy in the office of the Deputy Chairman, the Council shall elect one of its members to be the Deputy Chairman. Any person so elected shall hold office, while he continues to be a member of the Council, until the 20
appointment of his successor in accordance with this section, and may be reappointed.

(2) Subject to the provisions of this Act, the Deputy Chairman shall have and may exercise all the powers and duties of the Chairman during the absence or incapacity of the 25
Chairman or while there is a vacancy in the office of Chairman.

(3) No acts done by the Deputy Chairman acting as the Chairman shall in any proceedings be questioned on the grounds that the occasion for his so acting had not arisen or 30
had ceased.

9. Meetings of Council—(1) The Chairman shall preside at all meetings of the Council at which he is present.

(2) The Deputy Chairman shall preside at all meetings of the Council at which the Chairman is not present. In the 35
absence of both the Chairman and the Deputy Chairman from any meeting, the members present shall appoint one of their number to be the chairman of that meeting.

(3) The first meeting of the Council shall be held on a day to be appointed in that behalf by the Minister. 40

(4) Subsequent meetings of the Council shall be held at such times and places as the Council determines.

(5) A special meeting of the Council may at any time be called by the Chairman, and the Chairman shall call a special
5 meeting whenever requested to do so in writing by two members of the Council:

Provided that not less than seven clear days' notice of every special meeting and of the business to be transacted thereat shall be given to each member for the time being in New
10 Zealand, and no business other than that specified in the notice shall be transacted at any such meeting.

(6) At all meetings of the Council the quorum necessary for the transaction of business shall be seven members.

(7) Every question before the Council shall be determined
15 by a majority of the valid votes of the members present recorded thereon:

Provided that a resolution signed or assented to by letter or telegram by a majority of the members of the Council for the time being in New Zealand shall have the same effect as
20 a resolution duly passed at a meeting of the Council.

(8) The chairman at any meeting shall have a deliberative vote, and, in case of an equality of votes, shall also have a casting vote.

(9) There shall be not less than four meetings of the Council
25 in each financial year.

(10) Subject to the provisions of this Act and to the rules of the Council, the Council may regulate its own proceedings in such manner as it thinks fit.

10. Executive committee, special committees, and delegation of powers—(1) The Council may from time to time, by
30 resolution, appoint, discharge, alter, continue, or reconstitute—

(a) An executive committee of not less than three members:

(b) Special committees for particular purposes.

(2) Every member of the executive committee shall be a
35 member of the Council, but any person may be appointed to a special committee notwithstanding that he is not a member of the Council.

(3) The Council may delegate to the executive committee
40 or to any special committee such of its powers as it thinks fit.

(4) Subject to any general or special directions given or conditions attached by the Council, any powers and functions so delegated may be performed and exercised by the committee with the same effect as if those powers and functions had been directly conferred by this Act and not by delegation. 5

(5) Every committee purporting to act under any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation, in the absence of proof to the contrary.

(6) Every such delegation shall be revocable at will, and no such delegation shall prevent the performance or exercise of any power by the Council.

(7) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Council or of any committee. 15

(8) Subject to the rules of the Council, each committee may regulate its own proceedings in such manner as it thinks fit.

11. Proceedings of Council not affected by certain irregularities—No act or proceeding of the Council, or of any committee thereof, or of any person acting as a member of the Council, shall be invalidated in consequence of there being a vacancy in the membership of the Council at the time of that act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being or had ceased to be such a member, or that an insufficient number of meetings of the Council was held in any financial year. 25

Functions and Powers of Arts Council

12. Functions of the Council—The general functions of the Arts Council shall be— 30

- (a) To encourage, foster, and promote the practice and appreciation of the arts in New Zealand:
- (b) To make accessible to the public of New Zealand all forms of artistic work: 35
- (c) To improve standards of execution of the arts:
- (d) To foster and maintain public interest in the arts in New Zealand:
- (e) To exercise such functions as may be lawfully conferred on it by or under this or any other Act or otherwise 40
howsoever.

13. Powers of the Council—The Arts Council shall have such powers, rights, and authorities as may reasonably be necessary or expedient to enable it to carry out its functions, and in particular it may from time to time—

- 5 (a) Formulate and implement policies in respect of the furtherance of and assistance to the arts generally:
- (b) Make grants to any person to assist him to undertake studies, assignments, or commissions, make investigations, or gain further experience, in respect of
10 matters approved by the Council, whether within or beyond New Zealand:
- (c) Make grants or pay subsidies or, subject to the provisions of section 14 of this Act, make advances to
15 local authorities or organisations engaged in the execution, creation, publication, or presentation of any of the arts, or in the preservation and display of articles and things relating to the arts, on such conditions as the Council thinks fit:
- (d) Make awards to persons in New Zealand for outstanding accomplishment in the arts:
- 20 (e) Commission the creation or execution of any artistic works:
- (f) Acquire or accept whether by purchase, gift, loan, or
25 otherwise, and whether permanently or temporarily, any artistic work and, and if so desired, deliver any such work for safe custody and control to any local authority, museum, art gallery, association, society, or body of persons, whether incorporated or not, upon such terms and conditions as the Council thinks
30 fit:
- (g) Arrange for or undertake the exhibition of any artistic work and the giving of any artistic performance within or beyond New Zealand:
- (h) By such means as it considers expedient or practicable,
35 make accessible to the public of New Zealand all forms of artistic work:
- (i) Advise and assist any bodies or organisations which are engaged in artistic activities, including any such bodies or organisations which are financed partly
40 or wholly from public funds:
- (j) Enter into agreements with any local authority, corporation, society, firm, or person for the management and maintenance of any land, buildings, and thing for the purposes of this Act:

- (k) Acquire by purchase, lease, bailment, or otherwise any land, buildings, or personal property for the purposes of this Act:
- (l) Dispose of by sale, lease, bailment, or otherwise any land, buildings, or personal property of the Council: 5
- (m) Charge such fees for admission to lands and buildings vested in it or under its control or in respect of any exhibition or performance promoted, arranged, or controlled by it as the Council thinks fit:
- (n) Collect, examine, disseminate, or publish any information relating to the arts or to any particular form of art: 10
- (o) Subject to the provisions of this or any other Act, generally do whatever it considers necessary in order to stimulate artistic activity so that it may best 15 accomplish the purposes for which it exists.

14. Loans and endowments—(1) In the exercise of its powers under paragraph (c) of section 13 of this Act the Council may—

- (a) Make advances with or without security and at such rates of interest or free of interest as the Council determines: 20
- (b) With the consent of the Minister, establish any endowment or create any trust upon such terms and conditions and having such objects within the purposes of this Act as the Council thinks fit, and appoint trustees in respect of any such endowment or trust. 25

(2) Any trustees appointed under paragraph (b) of subsection (1) of this section shall keep such accounts and keep 30 them in such manner as may be directed by the Council and approved by the Audit Office.

15. Contracts of Council and members—(1) Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical 35 order the following item:

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| "The Queen Elizabeth the Second Arts Council of New Zealand | 1963, No. 00—The Queen Elizabeth the Second Arts Council of New Zealand Act 1963." |
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(2) Part II of the First Schedule to the Local Authorities (Members' Contracts) Act 1954 is hereby amended by inserting in its appropriate alphabetical order the following item:

- 5 "The Queen Elizabeth the
Second Arts Council of
New Zealand | 1963, No. 00—The Queen Elizabeth the
Second Arts Council of New Zealand
Act 1963."

16. Rules of Council—(1) The Council may, by resolution, make rules not inconsistent with this Act for all or any of the following purposes, namely:

- 10 (a) Regulating the proceedings of the Council and of any committee of the Council and the conduct of meetings of the Council or any such committee:
15 (b) Providing for the custody of the property of the Council and the custody and use of the common seal of the Council:
(c) Providing for such matters as may be deemed necessary or expedient for duly carrying out the work of the Council.

20 (2) Notice of every resolution proposed to be submitted to any meeting for the making, amendment, or revocation of any such rules as aforesaid shall be given to every member of the Council for the time being in New Zealand not less than fourteen clear days before the day fixed for the meeting.

25 *Officers of the Council*

17. Appointment of officers—(1) The Council may from time to time appoint such officers and servants as are considered necessary for the exercise and performance of the functions and powers of the Council.

30 (2) The Council may pay to its officers and servants such salaries and allowances, within scales approved in that behalf by the Minister of Finance, as it thinks fit.

35 (3) The Council may make payments to or subsidise the National Provident Fund or any fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its officers or servants.

Financial Provisions

40 **18. Grants to Council**—Any local authority within the meaning of the Local Authorities Loans Act 1956, or other public body, any public corporation, any company or other incorporated body, any unincorporated body of persons, or

any other person may, unless expressly prohibited by any Act or instrument of trust affecting the donor, make to the Council donations or gifts and the Council may accept any such donations or gifts.

19. Funds of the Council—The funds of the Council shall 5
comprise—

- (a) All money received by the Council out of money appropriated by Parliament for the purpose:
- (b) All money that may be allocated to the Council under section 22A of the Gaming Amendment Act 1962 (as 10
inserted by section 4 of the Gaming Amendment Act 1963):
- (c) All money that may be contributed to the Council or that may otherwise be lawfully payable to the Council: 15
- (d) All money received by the Council by way of fees, rent, or otherwise in respect of any land or property vested in or under the control of the Council or in respect of the exercise of any of the functions and powers of the Council: 20
- (e) All money received by the Council from the sale or other disposal of any property of the Council:
- (f) All interest and capital repayment money received by the Council in respect of money advanced by the Council pursuant to section 14 of this Act: 25
- (g) All accumulations of money belonging to the Council.

20. Unauthorised expenditure—The Council may, in any financial year, expend out of its funds for purposes not authorised by this or any other Act any sum or sums not amounting in the whole to more than two hundred pounds. 30

21. Investment of funds—Subject to the terms of any trust or endowment, any money belonging to the Council that is not immediately required for expenditure by the Council may be invested in accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds. 35

22. Money to be banked—(1) All money belonging to the Council shall as soon as practicable after it has come into the hands of the Treasurer or other proper officer of the Council be paid into such bank as the Council from time to time appoints to an account to be called The Queen Elizabeth the 40
Second Arts Council of New Zealand Trust Account.

(2) No money shall be withdrawn from any such account except by authority of the Council, and any cheque or other withdrawal notice shall be signed by the Treasurer or other officer of the Council appointed for the purpose.

5 (3) The Council may from time to time authorise the opening of an imprest account which may be held jointly in the names of and be operated on by the Treasurer and one other person to be appointed in that behalf by the Council, or may with the express approval in writing of the Audit
10 office, but not otherwise, be in the sole name of and operated on by the Treasurer or other approved officer of the Council. Where the imprest account is held jointly in the names of the Treasurer and of one other person, that other person shall be either a responsible officer of the Council or a member of
15 the Council.

(4) The Council shall from time to time by resolution fix the maximum amount that may be held at any time in the imprest account, not exceeding one hundred pounds in any case where the imprest account may be operated on by one
20 person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(5) Money in the imprest account shall be available only for the payment of salaries and wages and of emergency expenditure. A statement of all payments made from the
25 imprest account shall be submitted to the Council for approval at its first ordinary meeting thereafter.

23. Borrowing powers—The Council shall not borrow any money or mortgage or charge any of its property except with the precedent consent in writing of the Minister of Finance.

30 **24. Accounts**—(1) The Council shall keep full and correct accounts of all money received and expended by it, and the accounts shall be audited by the Audit Office, which for that purpose shall have and may exercise all such powers as it has under the Public Revenues Act 1953 in respect of public
35 money and the audit of local authorities' accounts.

(2) The Council shall, as soon as possible after the end of every financial year ending with the thirty-first day of December, cause the accounts of the Council for that financial year to be balanced and prepare a statement of the assets and
40 liabilities of the Council as at the end of that financial year, together with an account of income and expenditure showing the financial transactions for that year.

(3) Any obligation imposed on the Council under this section shall, in respect of the accounts of the trustees, be complied with by any trustees appointed under paragraph (b) of subsection (1) of section 14 of this Act and the provisions of this section, with the necessary modifications, shall apply accordingly. 5

25. Exemption from stamp duty, gift duty, and taxes—

(1) No stamp duty shall be payable on any conveyance, assignment, transfer, lease, or agreement whereby any land is conveyed, assigned, transferred, or leased or agreed to be conveyed, assigned, transferred, or leased to the Council for the purposes of this Act. 10

(2) No gift duty shall be payable on any gift made to the Council for the purposes of this Act, and no such gift shall be included in the dutiable estate of the donor, notwithstanding that he may die within three years after having made the gift. 15

(3) The Council is hereby declared to be exempt from income tax.

26. Annual report—(1) The Council shall, not later than the fifteenth day of May in every year, furnish to the Minister a report of its proceedings and operations for its preceding financial year, together with a copy of its accounts for that year certified by the Audit Office. 20

(2) A copy of the report and of the accounts so certified shall be laid before Parliament if then sitting, and, if not, within twenty-eight days after the commencement of the next ensuing session. 25

(3) The report and accounts required to be furnished to the Minister and laid before Parliament under this section shall include a report of the proceedings and operations of any trustees appointed under paragraph (b) of subsection (1) of section 14 of this Act and the accounts of any such trustees. 30

27. Travelling allowances—(1) The Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 35

(2) There may be paid to the members of the Council and of any committee appointed by the Council out of the funds of the Council, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 40

Miscellaneous Provisions

28. Members of Council not personally liable—No member of the Council shall be personally liable for any act or default done or made by the Council or by any member thereof in
5 good faith in the course of operations of the Council.

29. Certain assets and liabilities to become assets and liabilities of the Council—(1) On the commencement of this Act all real and personal property of every description vested in the Crown or in any person in the name of or on behalf of
10 the Arts Advisory Council shall be deemed to be transferred to and vested in the Arts Council incorporated by this Act, without the necessity of any assignment, transfer, conveyance, or other assurance, but subject to all liabilities, charges, obligations, or trusts affecting that property.

15 (2) All contracts, debts, liabilities, and obligations of the Arts Advisory Council or of the Crown or any person in the name of or on behalf of that Council shall become contracts, debts, liabilities, and obligations of the Arts Council.

20 (3) All members of the Arts Advisory Council, all former members, and all authorities and persons are hereby declared to be released and discharged from all liability and responsibility whatsoever in respect of any property, contract, debt, liability, or obligation hereby transferred to or imposed on the Arts Council.

25 (4) Any person charged with the duty of keeping any register, on written request by the Arts Council, shall make such entries in the register and on any outstanding documents of title and generally do all such things as may be necessary to give effect to this section.

30 (5) No stamp duty shall be payable in respect of the transfer to the Arts Council of any property under this section.