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1981-82, No. 29

An Act to establish the National Arts Council

BE IT ENACTED by the Parliament of the Cook Islands in session assembled, and by the authority of the same, as follows:

1. Short title - This Act may be cited as The National Arts Council Act 1981-82.

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

"Arts" includes visual and performing arts, crafts, and other forms of cultural expression:

"Chairman" means the Chairman of The National Arts Council:

"The Council" means The National Arts Council established under this Act:

"Deputy Chairman" means the Deputy Chairman of The National Arts Council:

"Educational body" means -

- a) The Department of Education or any school committee or
- b) The governing body of the Teachers College of any technical institute, secondary or primary school, or of any institution providing pre-school education.

"Financial year" means a period of 12 months ending with the 31st day of March:

"Minister" means the Minister of Cultural Affairs:

"Prescribed" means prescribed by rules:

"The National Arts Council" means the National Arts Council established under Section 3 hereof:

"Rules" means rules made under Section 12 of this Act.

## PART I

### THE NATIONAL ARTS COUNCIL

#### Constitution

3. The National Arts Council (1) There shall be a Council, to be called The National Arts Council, which 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, and of suing and being sued, and of doing and suffering all other acts and things that bodies corporate may do and suffer.

(2) The Council, after the commencement of this Act, shall consist of the following members:

- (a) One person who shall be appointed as Chairman by the Minister:

- (b) Three persons who shall be appointed by the Minister.
- (c) One person being a senior officer of the Department of Education who is for the time being approved for that purpose by the Minister of Education.

4. Terms of office of Chairman and members - (1) Except as otherwise provided by this Act, the Chairman and all other appointed members shall hold office for a term of 3 years from the dates of their respective appointments but may from time to time be re-appointed.

(2) The Chairman and all other appointed members, unless they sooner vacate their offices under section 5 of this Act, shall continue in office until their respective successors come into office.

(3) Notwithstanding the provisions of subsection (1) of this section, at the first meeting of the Council after the coming into force of this Act, it shall be determined by ballot that of the persons appointed as members under the provisions of paragraph (b) of subsection (2) of section 3 of this Act, the term of office of one member shall expire 1 year from the date of his appointment, the term of office of a further member shall expire 2 years from the date of his appointment, and the term of office of the remaining member shall expire 3 years from the date of his appointment.

5. Extraordinary vacancies - (1) The Chairman or any appointed member may at any time resign his office by giving written notice to that effect to the Minister.

(2) The Chairman or any appointed member may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(3) The Chairman or any appointed member shall be deemed to have vacated his office if he is absent from 3 consecutive meetings of the Council without its leave.

(4) If the Chairman or any appointed member dies or resigns, or is removed from office, or is deemed to have vacated his office, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy.

(5) Every extraordinary vacancy shall be filled by an appointment made in the same manner as that of the person whose office has become vacant.

(6) Every person who is appointed to fill an extraordinary vacancy shall be appointed for the remainder of the term for which his predecessor was appointed.

6. Deputy Chairman of Council - (1) At the first meeting of the Council after the coming into force of this Act and thereafter at the first meeting of the Council held after the 1st day of April in each year and also 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 appointment of his successor in accordance with this section and may be re-appointed.

(2) Except as otherwise provided in this Act the Deputy Chairman shall perform all the duties and may exercise all the powers of the Chairman during the absence or incapacity of the Chairman or while there is a vacancy in the office of the Chairman.

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

7. Meetings of the Council - (1) The Council shall meet at least 4 times in each financial year.

(2) The first meeting of the Council after the commencement of this Act shall be held at a time and place to be determined by the Minister.

(3) Subsequent meetings shall be held at such times and places as the Council or the Chairman from time to time determines.

(4) The Chairman may at any time call a special meeting of the Council.

(5) The Chairman shall call a special meeting of the Council whenever requested in writing by any 3 members to do so.

(6) The Chairman shall cause not less than 7 clear days' notice of every special meeting and of the business to be transacted at that meeting to be given to each member of the Council who is for the time being in the Cook Islands. No business shall be transacted at the meeting unless it has been specified in the notice.

(7) At any meeting of the Council, 3 members shall be a quorum.

(8) The Chairman shall preside at every meeting of the Council at which he is present.

(9) Where the Chairman is absent from a meeting of the Council -

(a) The Deputy Chairman shall preside if he is present: or

(b) If the Deputy Chairman is absent, the members present shall appoint one of their number to preside.

(10) Every question before the Council shall be decided by a majority of the votes cast by the members present at the meeting.

(11) At any meeting of the Council, the Chairman or other person presiding shall have a deliberative vote, and in the case of an equality of votes he shall also have a casting vote.

(12) Notwithstanding subsection 10 of this section, a resolution signed or assented to by letter or telegram by all of the members of the Council who are for the time being present in the Cook Islands shall have the same effect as a resolution duly passed at a meeting of the Council.

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

8. Committees of the Council - (1) The Council may from time to time appoint -

- (a) An executive committee consisting of the Chairman and the Deputy Chairman and not less than one other member of the Council; and
- (b) Special committees for particular purposes, which may consist of any persons, whether or not they are members of the Council.

(2) Subject to any rules, every committee may regulate its own procedure in such manner as it thinks fit.

#### Functions and Powers.

9. Functions of the Council - The Council shall have the following functions:

- (a) To encourage, promote, and support the development of professional standards in the arts in the Cook Islands;
- (b) To encourage, promote, and develop the practice and appreciation of the arts in the Cook Islands, in particular Cook Islanders and other Pacific Islanders arts;
- (c) To make accessible to every person in the Cook Islands, as far as may be practicable, all forms of artistic activity;
- (d) To encourage, promote, and support public interest in the arts in the Cook Islands;
- (e) To encourage, promote, and support artistic links with other countries by way of cultural exchanges, and to foster appreciation of the arts as practised in other countries;
- (f) To co-operate with educational bodies so as to develop the practice and appreciation of the arts as integral aspects of education in the Cook Islands;
- (g) To co-operate with broadcasting organizations and services in any activities that may facilitate the carrying out of the functions of the Council;
- (h) To give advice to the Minister on any matter relating to or affecting the functions of the Council.

10. Powers of the Council - (1) The Council shall have all the powers that are reasonably necessary or expedient to enable it to carry out its functions under this Act.

(2) In particular, but without limiting the generality of subsection (1) of this section, the Council may from time to time do all or any of the following things:

- (a) Formulate and carry out policies to further and assist the arts generally;
- (b) Make grants, on such conditions as it thinks fit, to any persons to assist them to undertake studies, assignments, or commissions, or to make investigations, or to gain further experience, in respect of matters approved by the Council, whether within or beyond the Cook Islands;
- (c) Make grants or pay subsidies, on such conditions as it thinks fit, to Island Councils, village committees, and to 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;
- (d) Make awards to persons for outstanding accomplishment in the arts, whether within or beyond the Cook Islands;
- (e) Commission the creation or execution of any artistic works, whether within or beyond the Cook Islands;
- (f) Acquire or accept, by purchase, exchange, gift, or bailment, or by any other means, either permanently or temporarily, any artistic work and, if so desired, deliver it for safe custody and control to any local authority, museum, art gallery, library, association, society, or body, on such conditions as the Council thinks fit;
- (g) Arrange for or undertake any artistic exhibition or performance, whether within or beyond the Cook Islands;
- (h) Advise and assist any bodies or organizations that are engaged in artistic activities, including bodies or organizations that are financed partly or wholly from public funds;
- (i) Enter into agreements with any local authority, corporation, society, firm, body, or person for the management and maintenance of any land, buildings, or thing for the purpose of this Act;
- (j) Acquire by purchase, exchange, lease, bailment, or gift, or by any other means, for the purposes of this Act, any land, buildings, or other real or personal property;
- (k) Dispose of by sale, exchange, lease, or bailment, or by any other means, any of its real or personal property;
- (l) Charge such fees as it thinks fit for admission to land or buildings vested in it or under its control, or in respect of any exhibition or performance arranged or undertaken by it;

- (m) Collect, examine, disseminate, or publish any information relating to the arts or to any particular form of art:
- (n) Subject to the provisions of this or any other Act, generally do whatever it considers necessary in order to stimulate artistic activity.

11. Loans and endowments - (1) In the exercise of its power to do any of the things specified in paragraph (c) of subsection (2) of section 10 of this Act, the Council may, with the written consent of the Minister,

- (a) Make advances with or without security, at such rates of interest as it determines or free of interest; and
- (b) Guarantee, with or without security, advances made by any person to any other person or persons; and
- (c) Establish any endowments or create any trusts on such terms and conditions, and for such objects within the purposes of this Act, as the Council thinks fit, and appoint trustees in respect of any such endowments or trusts.

(2) Any trustees appointed in respect of a trust established under subsection (1) of this section shall keep accounts in such manner as may be directed by the Council and approved by the Audit Office.

12. Rules - (1) The Council may from time to time, by resolution, make rules not inconsistent with this Act for all or any of the following purposes:

- (a) Regulating the proceedings, including the conduct of meetings, of Council and its committees;
- (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 other matters as may be necessary or expedient for the carrying out of the functions of the Council.

(2) Notice of every resolution to be submitted to any meeting for the making, amendment, or revocation of any rules shall be given, not less than 14 clear days before the day fixed for the meeting, to every member of the Council who is for the time being in the Cook Islands.

13. Appointment of employees - (1) The Council may, subject to the approval of the Minister, from time to time appoint such officers and other employees of the Council as it considers necessary for the effective and efficient carrying out of the functions of the Council.

(2) The Council may from time to time pay to its officers and employees, out of its funds, such salaries and allowances as the Council thinks appropriate, within scales fixed by it after consultation with the Public Service Commissioner.

(3) The Council may from time to time determine, after consultation with the Public Service Commissioner, the terms and conditions of service on which officers and employees of the Council shall be employed.

14. Delegation of powers - (1) The Council may from time to time, either generally or particularly, delegate to any of its committees such of its powers under this Act as it thinks fit, including this power of delegation.

(2) Subject to any general or special directions given or conditions attached by the Council, a committee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on it directly by this Act and not by delegation.

(3) Every committee purporting to act pursuant to 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.

(4) Every delegation under this section shall be revocable by the Council at will, and no such delegation shall prevent the exercise of any power by the Council.

(5) 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 the committee to whom the delegation was made.

#### Financial Provisions

15. Funds of the Council - The funds of the Council shall consist of the following money:

- (a) All money received by the Council out of money appropriated by Parliament for the purpose;
- (b) All money paid to the Council under section 12 of the Entertainment Tax Act 1975;
- (c) All money lawfully contributed or donated to the Council or otherwise lawfully payable to the Council;
- (d) All money received by the Council by way of fees, rent, or otherwise in respect of any real or personal property owned or controlled by the Council or in respect of the exercise of any of the functions or powers of the Council;
- (e) All money received by the Council from the sale or other disposal of any real or personal 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 11 of this Act;
- (g) All accumulations of money belonging to the Council.

16. Bank accounts - (1) The Council shall open and maintain such bank account or accounts as it thinks fit.



(2) No money shall be paid out of any bank account of the Council except with the authority, and in accordance with any general or special directions, of the Council.

(3) A bank account of the Council may only be operated on by cheque or other instrument (not being a promissory note or bill) signed by any member or officer of the Council who is authorized by it to sign cheques drawn on that account, and countersigned by any other member or officer of the Council who is authorized by it to sign such cheques.

17. Money to be banked - All money forming part of the funds of the Council shall, as soon as practicable after it is received by any member or authorized officer of the Council, be paid into one of its bank accounts established under section 16 of this Act.

18. Borrowing powers - The Council shall not, except with the prior approval in writing of the Minister, borrow money whatever by way of bank overdraft or otherwise, or mortgage or otherwise charge any of its real or personal property.

19. Investment of funds - Subject to the terms of any trust or endowment, the Council may invest, in accordance with the provisions of the Trustees Act 1956, an enactment of the Parliament of New Zealand, as to the investment of funds, any money belonging to the Council that is not immediately required by it for expenditure.

20. Accounts - (1) The Council shall keep full and correct accounts of all money received and expended by it.

(2) The Council shall, as soon as possible after the end of every financial year, cause its accounts for that financial year to be balanced, and cause to be prepared a statement of the assets and liabilities of the Council as at the end of that financial year, together with an account of income and expenditure showing the financial transactions of the Council for that financial year.

(3) The balance sheet, statement, and other accounts of the Council shall be submitted to and audited by the Treasury, which shall for that purpose have the same powers as it has under the Public Moneys Act 1969 in respect, of public money.

(4) The obligations imposed on the Council under this section shall, with regard to the accounts of trustees appointed in respect of a trust established pursuant to subsection (1) of section 11 of this Act, be complied with by those trustees, and the provision of this section shall, with the necessary modifications apply accordingly to those trustees.

21. Exemption from income tax - The Council shall be exempt from income tax.

22. Annual report - (1) The Council shall, as soon as practicable after the 31st day of March in every year,

furnish to the Minister a report of its proceedings and operations for the preceding financial year, together with a copy of its audited accounts for that year.

(2) The report shall incorporate all reports and copies of audited accounts required to be furnished to the Council under subsection (3) of this section in respect of that financial year.

(3) Where any trustees have been appointed in respect of a trust established pursuant to subsection (1) (c) of section 11 of this Act, they shall, not later than the 30th day of April in every year, furnish to the Council a report of their proceedings and operations for the preceding financial year, together with a copy of their audited accounts for that year.

(4) Copies of the report and audited accounts of the Council shall be laid before Parliament as soon as practicable after they have been received by the Minister.

## PART II

### General Provisions

23. Educational bodies - (1) Every educational body shall have regard to the needs of the Council in carrying out the functions conferred on them by this Act, and to the desirability of developing the practice and appreciation of the arts as integral aspects of education in the Cook Islands.

(2) Every educational body may for the purposes of subsection (1) of this section make available to the Council, on such terms and conditions as the educational body thinks fit, such premises and other amenities as are within its control.

24. Fees and travelling allowances - (1) There may, if the Minister so directs, be paid out of the funds of the Council to -

- (a) The Chairman of the Council; and
- (b) The Deputy Chairman of the Council; and
- (c) Every other member of the Council;

remuneration by way of salary or fees for their services.

(2) There shall be paid out of the funds of the Council to every person specified in subsection (1) of this section travelling allowances and expenses in respect of time spent by him in travelling in the services of the Council.

25. Members and employees not in service of Crown - No person, by reason only that he is a member, officer, or employee of the Council, shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1975.

26. Members not personally liable - No member of the Council, shall be personally liable for any default made by any of the Council, or by any member of it, in good faith in the course of its operations.

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

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This Act is administered by the National Arts Council