

INDUSTRIAL DESIGN BILL

EXPLANATORY NOTE

THIS Bill establishes an Industrial Design Council and an Industrial Design Institute and prescribes the functions, powers, and duties of the Council.

Clause 2 defines terms used in the Bill.

Clause 3 establishes the Council which will be a body corporate. The clause also establishes the Industrial Design Institute which will consist of the Council, any committee thereof, and any organisation or person admitted to membership by the Council.

Clause 4 provides for membership of the Council. The Council will consist of nine members of whom six (one of whom will be appointed as Chairman) will be appointed by the Governor-General on the recommendation of the Minister and three will be the permanent heads of the Department of Industries and Commerce, the Education Department, and the Department of Scientific and Industrial Research.

Clause 5 provides that the term of office of the appointed members (that is members who are not permanent heads) will not be more than two years. This provision will enable a rotation of members to take place by varying the period for which members are appointed. Members may be reappointed.

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

Clause 7 provides for the appointment of deputies during the temporary incapacity of appointed members.

Clause 8 provides for the election by members of a Deputy Chairman.

Clause 9 provides for meetings of the Council.

Clause 10 authorises the Council to appoint an executive committee of members and special committees which may contain persons not members. The Council may delegate its functions or powers to the executive committee but not to special committees, whose functions will be mainly advisory.

Clause 11 provides that the necessary staff and services for the administration of the Council will be provided by the Department of Industries and Commerce until such time as the Council appoints its own staff under *clause 12*.

Clause 12 authorises the Council to appoint employees.

Clause 13 provides for the payment of fees and travelling allowances to members of the Council and its committees.

Clause 14 prescribes the general functions of the Council which are to promote the appreciation, development, improvement, and use of industrial design with the object of improving the quality and appearance of goods produced in New Zealand.

Clause 15 prescribes in detail the powers given to the Council for the purpose of exercising its functions.

Clause 16 authorises the Council to buy, sell, lease, and exchange property and plant.

Clause 17 authorises payments to the Council of sums appropriated by Parliament for the purposes of the Council.

Clause 18 empowers public bodies and persons to contribute to the funds of the Council.

Clause 19 prescribes the money forming part of the funds of the Council.

Clause 20 provides that the funds of the Council may be invested in trustee investments.

Clause 21 provides for unauthorised expenditure up to £200 a year.

Clause 22 authorises the Council to borrow money and charge its property with the prior consent of the Minister of Finance.

Clause 23 requires money of the Council to be banked and prescribes the method of withdrawal.

Clause 24 requires the Council to keep full and correct accounts and to have its accounts audited by the Audit Office.

Clause 25 requires the Council to prepare an annual report which is to be presented to Parliament.

Clause 26 exempts the Council from taxation.

Clause 27 provides that members acting in good faith in the course of operations of the Council shall not be personally liable.

Clause 28 empowers the Council to insure its members against personal accident.

Clause 29 applies the Public Bodies Contracts Act 1959 and the Local Authorities (Members' Contracts) Act 1954 to the Council.

Clause 30 prohibits the use of the words "Industrial Design Council" or "Industrial Design Institute" in the name of any organisation.

Clause 31 empowers the Council to make rules for its government.

Clause 32 provides for the making of regulations.

Hon. Mr Marshall

INDUSTRIAL DESIGN

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A BILL INTITULED

An Act to promote the creation and use of designs beneficial to industry in New Zealand and for that purpose to provide for the establishment of an Industrial Design Council and an Industrial Design Institute

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

10 **1. Short Title and commencement**—(1) This Act may be cited as the Industrial Design Act 1966.

(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

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

“Council” means the New Zealand Industrial Design Council established under this Act:

“Department” means the Department of Industries and Commerce: 5

“Industrial design” means features of shape, configuration, pattern, or ornament intended to be applied to any article by any industrial process or means, being features which in the finished article appeal to the eye or assist in the function which the article has to perform: 10

“Institute” means the New Zealand Industrial Design Institute established under this Act:

“Minister” means the Minister of Industries and Commerce. 15

The New Zealand Industrial Design Council

3. Establishment of Council and Institute—(1) There is hereby established a Council to be called the New Zealand Industrial Design Council. 20

(2) The Council shall be a body corporate, with perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer. 25

(3) There shall also be for the purposes of this Act an Institute which shall be called the New Zealand Industrial Design Institute.

(4) The Institute shall consist of the New Zealand Industrial Design Council established under this section and every committee of the Council appointed by the Council under this Act and every local authority, organisation, or person admitted to membership of the Institute under paragraph (i) of subsection (2) of section 15 of this Act. 30

4. Membership of Council—(1) The Council shall consist of nine members, being— 35

(a) Six members (hereinafter referred to as appointed members) to be appointed by the Governor-General on the recommendation of the Minister, of whom one shall be appointed as Chairman: 40

(b) The Secretary of Industries and Commerce:

(c) The Director-General of Education:

(d) The Director-General of the Department of Scientific and Industrial Research.

(2) No appointed member shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act 1956 by reason of his being a member of the Council.

5 **5. Term of office of members**—(1) The appointed members of the Council shall be appointed for a term not exceeding two years but may from time to time be reappointed for a term not exceeding two years.

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

15 **6. Extraordinary vacancies**—(1) Any appointed member 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 writing addressed to the Minister.

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

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

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

(5) The powers of the Council shall not be affected by any vacancy in the membership thereof.

30 **7. Deputies of appointed members**—(1) If any appointed member is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, that member may appoint a deputy, approved by the Minister in that behalf, to act for him during his incapacity.

35 (2) Any deputy appointed under this section shall, while he acts as such, be deemed to be a member of the Council.

(3) No appointment of a deputy and no act done by him as such, and no act done by the Council while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not
40 arisen or had ceased.

8. Deputy Chairman—(1) The Council shall from time to time elect one of its appointed members to be Deputy Chairman to hold office as such for the term of his appointment as a member.

(2) During any vacancy in the office of Chairman, or in the absence of the Chairman from any meeting of the Council, or in the event of the Chairman being incapacitated by illness or other cause from performing the duties of his office, the Deputy Chairman shall have and may exercise all the powers of the Chairman.

(3) Neither the Chairman nor the Deputy Chairman shall exercise any powers as such while he is not a member of the Council.

9. Meetings of Council—(1) The first meeting of the Council shall be held on a day to be appointed in that behalf by the Minister.

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

(3) The Chairman may at any time call a special meeting of the Council and the Chairman shall call a special meeting whenever required to do so in writing by any three members.

(4) At all meetings of the Council not less than five members shall form a quorum.

(5) The Chairman shall preside at all meetings of the Council at which he is present. In the absence from any meeting of the Chairman and the Deputy Chairman, the members present shall appoint one of their number to be chairman at that meeting.

(6) In the absence from any meeting of the Council any member (other than an appointed member), any officer of his Department authorised in that behalf may attend the meeting in his stead, or during intervals between meetings do any act which the member may do, and while so attending or acting shall be deemed to be a member.

(7) At any meeting of the Council the chairman shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

(8) All questions arising at any meeting of the Council shall be decided by a majority of the valid votes recorded thereon.

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

10. Committees—(1) The Council may from time to time, by resolution, appoint, discharge, alter, continue, or reconstitute—

- 5 (a) An executive committee of not less than four members:
- (b) Special committees for particular purposes.
- (2) Every member of the executive committee shall be a member of the Council, but any person may be appointed to a special committee notwithstanding that he is not a member of the Council.
- 10 (3) The functions of special committees shall be to advise the Council on such matters concerning industrial design as are referred to them by the Council.
- (4) The Council may delegate to the executive committee such of its powers and functions as it thinks fit.
- 15 (5) Subject to any general or special directions given or conditions attached by the Council, any powers or functions so delegated may be performed and exercised by the executive committee with the same effect as if those powers or functions had been directly conferred by this Act and not by delegation.
- 20 (6) Every executive 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.
- (7) Every such delegation shall be revocable at will, and
- 25 no such delegation shall prevent the performance or exercise of any power or function by the Council.
- (8) 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.
- 30 (9) Subject to the rules of the Council, each committee appointed under this section may regulate its own proceedings in such manner as it thinks fit.

11. Department to provide certain services—During such time as the Council has not sufficient staff to enable it to

35 exercise all or any of its powers and functions, the Department shall provide such staff and services as may be necessary for those purposes:

Provided that the Department shall not provide any staff or services under this section after the first day of January,

40 nineteen hundred and seventy-two, or such earlier date as may be determined by the Minister in that behalf and notified to the Council.

12. Employees of Council—(1) The Council may from time to time appoint such employees, including acting or temporary or casual employees, as it thinks necessary for the efficient exercise of its powers and functions under this Act, and may, subject to any contract of service, at any time remove any employee from his office or employment. 5

(2) Employees of the Council shall be paid such salaries and allowances (within scales fixed by the Council in agreement with the State Services Commission) as the Council from time to time determines. 10

(3) Employees of the Council shall be employed on terms and conditions of employment from time to time determined by the Council in agreement with the State Services Commission.

(4) Before any employee entrusted by the Council with the custody or control of money by virtue of his office enters on the duties of his office, the Council shall take sufficient security for the faithful execution of his office. 15

(5) Any person in the service of the Crown may be appointed to be an employee of the Council, but no such person shall be entitled to hold office concurrently as an employee of the Council and as a servant of the Crown except— 20

(a) In the case of a person subject to the State Services Act 1962, with the consent of the State Services Commission; and 25

(b) In any other case, with the consent of the Minister of the Crown to whose control he is subject.

(6) The Council shall out of its funds subsidise or contribute to the National Provident Fund or any other fund or scheme established with the approval of the Minister of Finance for the purpose of providing superannuation or retiring allowances for its employees. 30

13. Fees and 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 members of the Council and of any committee appointed by the Council out of the funds of the Council remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 40

14. Functions of Council—The general functions of the Council shall be to promote the appreciation, development, improvement, and use of industrial design in New Zealand with the object of improving the quality, efficiency, and appearance of goods produced in New Zealand.

15. Powers of Council—(1) The Council shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the Council may from time to time—

- (a) Provide for the encouragement and recognition of industrial designers:
- 15 (b) Collaborate with persons engaged in the manufacture or sale of goods produced in New Zealand with the object of improving the efficiency or appearance of any such goods by the use of good industrial design:
- 20 (c) Provide for the registration of persons reaching a prescribed standard of efficiency in the execution of industrial design and of persons qualified to give instruction in industrial design:
- (d) Promote research in respect of the techniques and use of industrial design:
- 25 (e) Establish libraries and other sources of information for reference in respect of matters relating to industrial design:
- (f) Collect and disseminate information relating to industrial design, including the publication of reports, pamphlets, books, journals, and other publications:
- 30 (g) Assist manufacturers, trainees, schools, and other persons and bodies in the promotion and use of good industrial design:
- (h) Provide advisory and other services in respect of the application and use of industrial design:
- 35 (i) Solicit and accept for the purposes of the Council any money, land, or other property from any person or organisation by way of grant, subsidy, gift, subscription, or otherwise; and extend to any organisation or person from which it accepts any money, land, or other property as aforesaid, such concessions or benefits as it thinks fit, and may grant to any such organisation or person membership, on such terms and conditions as it thinks fit, of the New Zealand Industrial Design Institute:
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- (j) Charge appropriate fees in respect of any services rendered:
- (k) Carry out such powers and duties as are conferred on it by or under this Act or otherwise.

16. Powers of Council with respect to property—(1) With the approval of the Minister, the Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such land, or buildings, or parts of buildings, as in the opinion of the Council are necessary for the performance of its powers or functions.

(2) The Council may, out of its funds, purchase, take on lease, hire, or otherwise acquire such plant, machinery, and equipment as in its opinion are necessary for the performance of its powers or functions and may dispose of any such property when no longer required.

(3) With the approval of the Minister, the Council may sell or exchange any land vested in the Council, and may pay or receive any money by way of equality of exchange.

(4) Nothing in subsection (3) of this section shall authorise the sale or exchange of any land granted by the Crown or by any Act as an endowment to the Council.

(5) Any land held by the Council in trust for a special purpose may, with the consent of the Minister, be sold or exchanged under this section notwithstanding the terms of the trust; but the proceeds of any such sale, and the land or money obtained by any such exchange, shall be subject to the same or similar trusts, so far as may be, as the land so disposed of.

(6) The Council may grant leases of any land vested in it for such period or periods at such rent and generally upon such terms or conditions as the Council considers advisable or expedient:

Provided that no lease shall be granted for a term exceeding ten years without the consent in writing of the Minister.

17. Payments to Council—There may from time to time be paid to the Council, out of money appropriated by Parliament for the purpose, such sums as the Minister of Finance from time to time approves.

18. **Contributions to Council**—Any local authority within the meaning of the Local Authorities Loans Act 1956, or other public body, any body corporate, any unincorporated body of persons, or any other person may, unless expressly
5 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 Council**—The funds of the Council shall consist of—
10 (a) Any money appropriated by Parliament for the purposes of the Council and approved for payment by the Minister of Finance:
(b) All money paid to the Council by way of grants, subsidies, donations, gifts, fees, subscriptions, rent,
15 interest, and royalties:
(c) All money derived from the sale of any property held by or on behalf of the Council:
(d) All other money and property lawfully received by the Council for its purposes:
20 (e) All accumulations of income derived from any such property or money.

20. **Investment of funds**—Subject to the terms of any trust or endowment, any money belonging to the Council and available for investment may be invested in accordance with
25 the provisions of the Trustee Act 1956 as to the investment of trust funds.

21. **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
30 amounting in the whole to more than two hundred pounds.

22. **Borrowing powers**—With the prior consent in writing of the Minister of Finance, the Council may borrow money from the Crown or from any corporation or person; and, for the purpose of securing the repayment of any money so
35 borrowed, may mortgage, charge, or pledge any right, title, estate, or interest in any of its property.

23. **Money to be banked**—(1) All money received by the Council or an employee of the Council, amounting to ten pounds or upwards, shall as soon as practicable after it has
40 come into the hands of any of them be paid into such bank account or accounts as the Council from time to time determines.

(2) No money shall be withdrawn from any such account except by cheque signed by an employee of the Council authorised by the Council in that behalf and countersigned by another such employee or by a member of the Council so authorised:

Provided that for the purposes of this subsection and of subsections (1) and (4) of this section, any officer of the Department for the time being engaged in the work of the Council shall be deemed to be an employee of the Council:

Provided also that it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Council by cheque bearing facsimiles of the signatures of the persons so authorised to sign cheques, and every cheque bearing those facsimiles shall be deemed to have been duly signed in accordance with the provisions of this subsection.

(3) Every payment of money by the Council shall be authorised by a prior resolution of the Council or shall be submitted to the Council for authorisation at its next ordinary meeting.

(4) 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 two employees of the Council approved in that behalf by the Council, or may, with the express approval in writing of the Audit Office, but not otherwise, be in the sole name of and operated on by one such employee approved as aforesaid.

(5) 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 account may be operated on by one person acting alone, and not exceeding such amount as the Audit Office may approve in any other case.

(6) 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 imprest account shall be submitted to the Council for its approval at its first ordinary meeting thereafter.

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 money and the audit of local authorities' accounts.

(2) The Council shall, as soon as practicable after the end of every financial year ending with the thirty-first day of March, cause to be prepared full and true statements and accounts of all its income and expenditure in that year and 5 of its assets and liabilities at the end of that year.

25. Annual report—(1) The Council shall, not later than the thirtieth day of June in each 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 10 year certified by the Audit Office.

(2) A copy of the report 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.

15 26. Exemption from taxes—(1) All land owned or held in trust for the Council shall be exempt from land tax.

(2) The income of the Council shall be exempt from income tax.

Miscellaneous Provisions

20 27. Members not personally liable—(1) No member of the Council or of any committee appointed by the Council shall be personally liable for any act or default done or made by the Council or the committee or by any member thereof in good faith in the course of operations of the Council or the 25 committee.

(2) Without limiting the provisions of subsection (1) of this section, in any proceedings against any such member in respect of any such act or default alleged to be not in good faith as aforesaid, the member shall not be personally liable 30 if he shows—

(a) Where the act or default was pursuant to a resolution passed at a meeting of the Council or committee of which he is a member, that he was not present when the resolution was passed or that he voted 35 against the resolution; or

(b) Where the act or default was not pursuant to such a resolution, that it occurred without his knowledge, or, if with his knowledge, then against his protest made at or before the time when it occurred.

40 (3) For the purposes of this section, any such member may at any meeting demand a poll on any proposal before the meeting and require that his vote be recorded thereon, and the person presiding at the meeting shall record the vote accordingly.

28. Insurance of members—The Council may from time to time enter into contracts of insurance insuring members of the Council and of any committee appointed by the Council against loss from personal accident arising out of and in the course of the exercise of their powers and duties as members, and pay the premiums payable in respect of any such contracts. 5

29. 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 order the following item: 10

“The New Zealand Industrial Design Council | 1966, No. 00—The Industrial Design Act 1966.”

(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: 15

“The New Zealand Industrial Design Council | 1966, No. 00—The Industrial Design Act 1966.”

30. Restriction on use of words “Industrial Design” in certain circumstances—(1) Except with the consent of the Governor-General in Council, no association of persons, whether a body corporate or not, shall exercise the functions for which it is formed under a name which contains the words “Industrial Design Council” or “Industrial Design Institute” or any abbreviation of those words. 20 25

(2) Where any Act provides for the registration of any association of persons, the registering authority may refuse registration if in its opinion the use of the name by which the association desires to be registered is prohibited by subsection (1) of this section. 30

(3) The provisions of this section shall, with the necessary modifications, apply to a person carrying on business under any name or style other than his own.

(4) Any association which, or person who, does any act in contravention of the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds. 35

(5) Nothing in this section shall apply to the use by any association or person of any name that was in use in New Zealand by that association or person, or any predecessor in business of that association or person, immediately before the coming into force of this section. 40

31. 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:

- 5 (a) Regulating the proceedings of the Council and of any committee appointed by the Council and the conduct of the meetings of the Council or any such committee:
- 10 (b) Providing for membership of the Institute and prescribing terms and conditions in respect of any such membership:
- (c) Providing for the custody of the property of the Council and the custody and use of the common seal of the Council:
- 15 (d) Providing for such matters as may be deemed necessary or expedient for duly carrying out the work of the Council.

(2) Notice of every resolution 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
20 Council for the time being in New Zealand not less than fourteen clear days before the date fixed for the meeting.

32. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 25 (a) Providing for the registration of persons engaged in the teaching or practice of industrial design and prescribing qualifications required for any such registration:
- (b) Prescribing the circumstances in which fees shall be payable to the Council in respect of services provided by the Council:
- 30 (c) Prescribing the amount of fees payable to the Council in respect of services provided by the Council or otherwise howsoever:
- (d) Providing for examinations to be conducted by the
35 Council:
- (e) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.