

MUSEUM OF NEW ZEALAND BILL

EXPLANATORY NOTE

THIS Bill, which comes into force on 1 July 1991,—

- (a) Establishes the Museum of New Zealand; and
- (b) Constitutes the Museum of New Zealand Board, and defines the Board's functions and powers; and
- (c) Dissolves the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial; and
- (d) Provides for the control and maintenance of the National War Memorial; and
- (e) Repeals the National Art Gallery, Museum, and War Memorial Act 1972.

The Museum of New Zealand is to be a repository for national treasures relating to our cultural heritage, history, and natural environment.

The new complex is to be located on the Wellington waterfront, and will incorporate the existing National Art Gallery and National Museum in Buckle Street, Wellington.

In place of the present Board of Trustees, the Bill constitutes the Museum of New Zealand Board, which will own the Museum site and administer the Museum. The functions and powers of the Board are defined in the body of the Bill, and the *First Schedule* details procedural and incidental matters relating to the Board.

The existing National War Memorial, and the land upon which it is situated, are to vest in the Crown. The Secretary for Internal Affairs will be responsible for the control and maintenance of the Memorial, and will administer the Memorial in conjunction with a council constituted by the Bill, to be known as the National War Memorial Advisory Council.

MUSEUM OF NEW ZEALAND

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A BILL INTITULED

An Act—

- (a) To establish the Museum of New Zealand; and
- (b) To constitute the Museum of New Zealand Board, and to define the Board's functions and powers; and 5
- (c) To dissolve the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial; and 10
- (d) To provide for the control and maintenance of the National War Memorial; and
- (e) To repeal the National Art Gallery, Museum, and War Memorial Act 1972

BE IT ENACTED by the Parliament of New Zealand as follows: 15

1. Short Title and commencement—(1) This Act may be cited as the Museum of New Zealand Act 1990.

(2) This Act shall come into force on the 1st day of July 1991.

2. Interpretation—In this Act, unless the context otherwise requires,— 20

“Board” means the Museum of New Zealand Board constituted by section 6 of this Act:

“Museum” means the Museum of New Zealand established by section 5 of this Act:

“Year” means the period of 12 months ending with the 30th day of June. 25

Cf. 1972, No. 11, s. 2; 1989, No. 44, s. 86 (1)

3. Act to bind the Crown—This Act shall bind the Crown.

4. Purpose of Act—The purpose of this Act is to establish a national museum which provides a forum in which the nation may present, explore, and preserve its cultural heritage, history, and knowledge of the natural environment, in order to foster the enrichment and understanding of the nation's past, present, and future. 30

PART I

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MUSEUM OF NEW ZEALAND

5. Museum of New Zealand—(1) There is hereby established a museum to be called the Museum of New Zealand.

(2) The Maori name of the Museum shall be Te Papa Tongarewa.

5 (3) The Museum shall incorporate the National Art Gallery and the National Museum existing immediately before the commencement of this Act.

6. Museum of New Zealand Board—(1) There is hereby constituted a board to be called the Museum of New Zealand Board.

10 (2) The Maori name of the Board shall be the Te Papa Tongarewa Board.

(3) The Board shall be a body corporate with perpetual succession and a common seal, and, subject to this Act and to any other Act or rule of law, shall have and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

15 Cf. 1972, No. 11, s. 4 (1)

7. Functions—The principal functions of the Board are—

- 20 (a) To control and maintain the Museum:
- (b) To collect works of art and items relating to history and the natural environment:
- (c) To develop, maintain, care for, and act as a national repository for, and house safely, the collections of art and items relating to history and the natural environment in the Board's care:
- 25 (d) To exhibit, or make available for exhibition by other public art galleries, museums, and allied organisations, such material from its collections as the Board from time to time determines:
- 30 (e) To collect, conduct, or assist in research into any matter relating to its collections, and to co-ordinate such research with other research bodies:
- (f) To provide an education service in connection with its collections:
- 35 (g) To disseminate information relating to its collections, and to any other matters relating to the Museum and its functions:
- (h) To co-operate with and assist other New Zealand museums in establishing a national service, and in providing appropriate support to other institutions and organisations holding objects or collections of national importance:
- 40 (i) To co-operate with other institutions and organisations having objectives similar to those of the Board:

- (j) To endeavour to make the best use of the Board's collections in the national interest:
- (k) To design, construct, and commission any building or structure required by the Museum.

Cf. 1972, No. 11, s. 11 (1)

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8. Performance of functions—In performing its functions the Board shall—

- (a) Have regard to the ethnic and cultural diversity of the people of New Zealand, and the contributions they have made and continue to make to New Zealand's cultural life and the fabric of New Zealand society: 10
- (b) Endeavour to ensure that the Museum expresses and recognises the mana and significance of Maori and European tradition and cultural heritage, and shall provide the means for each culture to contribute effectively to the Museum as a statement of New Zealand's identity: 15
- (c) Endeavour to ensure that the Museum is a source of pride for all New Zealanders.

9. Powers—(1) The Board shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions. 20

(2) Without limiting the generality of **subsection (1)** of this section, and subject to **subsection (3)** of this section, the Board shall have power— 25

- (a) To take such measures as it considers necessary to ensure that adequate funds are available for the performance of its functions:
- (b) To receive on behalf of the Museum any money paid to the Museum by the Crown or by any other person, and to allocate such money to the activities of the Museum in such manner as the Board thinks fit. 30

(3) The Board shall not allocate any money that has been made available to the Museum for a specified purpose to any other purpose. 35

Cf. 1972, No. 11, s. 11 (2) (a), (b)

10. Membership—(1) The Board shall consist of 12 members, who shall be appointed by the Governor-General on the recommendation of the Minister of Arts and Culture.

(2) One member of the Board shall be appointed as Chairperson. 40

(3) In recommending persons for appointment as members of the Board, the Minister of Arts and Culture shall have regard to—

- 5 (a) The need for the members of the Board to have between them a blend of management and financial skills:
(b) The need for members to have knowledge and experience of, and commitment to, the functions of the Board, and the specific activities of the Museum.

Cf. 1972, No. 11, s. 5

10 **11. Co-opted members**—(1) For the purposes of any matter before the Board, the Board may co-opt any person or persons whose qualifications or experience are likely, in the opinion of the Board, to be of assistance to the Board in dealing with that matter.

15 (2) Every person co-opted under **subsection (1)** of this section shall be entitled to take part in the proceedings of the Board in relation to that matter, but shall not be entitled to vote on that matter.

20 (3) The failure of any person co-opted under **subsection (1)** of this section to exercise, in relation to any matter, any right conferred on that person by **subsection (2)** of this section, shall not affect the validity of any meeting or other proceeding of the Board in respect of that matter.

25 **12. Term of office**—(1) Subject to **subsection (4)** of this section and to **section 13** of this Act, every member of the Board appointed under **section 10** of this Act shall be appointed for a term of 3 years.

(2) Every member of the Board shall be eligible for reappointment from time to time.

30 (3) Where the term for which a member of the Board has been appointed expires, that member, unless sooner vacating or removed from office under **section 13** of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

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

(4) With respect to the first members appointed under **section 10** of this Act, the following provisions shall apply:

- 40 (a) Four of those members shall be appointed for an initial term of 1 year; and
(b) Four of those members shall be appointed for an initial term of 2 years.

Cf. 1972, No. 11, s. 6

13. Extraordinary vacancies—(1) Any member of the Board may at any time be removed from office by the Governor-General for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General. 5

(2) Any member of the Board may at any time resign his or her office by giving written notice to that effect to the Minister of Arts and Culture.

(3) If any member of the Board dies or resigns or is removed from office, the vacancy so created shall be deemed to be an extraordinary vacancy. 10

(4) Any extraordinary vacancy shall be filled in the manner in which the appointment to the vacant office was originally made.

(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. 15

(6) The powers of the Board shall not be affected by any vacancy in its membership.

Cf. 1972, No. 11, s. 7 20

14. Deputy Chairperson—(1) The Board may from time to time appoint one of its members as the Deputy Chairperson of the Board.

(2) Unless the Deputy Chairperson sooner resigns from that office, or is appointed to be the Chairperson of the Board, or vacates his or her office as a member of the Board, he or she shall hold the office of Deputy Chairperson of the Board until the appointment of a successor in accordance with this section, and shall be eligible for reappointment. 25

(3) If the Deputy Chairperson is appointed to be the Chairperson of the Board, or ceases to be a member of the Board, he or she shall thereupon vacate the office of Deputy Chairperson. 30

(4) During any vacancy in the office of Chairperson of the Board, or in the absence of the Chairperson from New Zealand, or while the Chairperson is incapacitated by sickness or otherwise, the Deputy Chairperson shall have and may exercise all the powers and functions of the Chairperson. 35

(5) No acts done by the Deputy Chairperson acting as the Chairperson shall in any proceedings be questioned on the grounds that the occasion for the Deputy Chairperson so acting had not arisen or had ceased. 40

Cf. 1972, No. 11, s. 9

15. Rules—The Board may from time to time, by resolution, make, alter, or rescind any rules not inconsistent with this Act, for all or any of the following purposes:

- 5 (a) Prescribing the procedure to be followed at any meeting of the Board, or at any committee of the Board:
- (b) Providing for the custody of its property and the use of its common seal:
- (c) Prescribing the duties of its officers and other employees:
- 10 (d) Such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Board or of any committee thereof.

16. Committees—(1) The Board may from time to time, by resolution, appoint, alter, discharge, continue, or reconstitute 15 any committee to advise the Board on such matters relating to the Board's functions and powers as are referred to that committee by the Board.

(2) Every committee shall consist of such number of persons as the Board thinks fit to enable the committee to carry out 20 such of the Board's functions and powers as may be delegated to the committee under **section 17** of this Act.

(3) Any person may be appointed to be a member of a committee, whether or not that person is a member of the Board.

(4) Subject to this Act, to any rules made by the Board under 25 **section 15** of this Act, and to any direction given by the Board, every committee may regulate its own procedure.

Cf. 1972, No. 11, s. 15

17. Delegation of functions and powers—(1) Subject to 30 **subsection (4)** of this section, the Board may from time to time, either generally or specifically, delegate any of its functions and powers to any of its committees or members.

(2) Every delegation under this section shall be in writing.

(3) The Board shall ensure that a copy of every delegation 35 under this section is kept at its office and is made available for inspection by any person.

(4) The Board shall not delegate the following powers:

- 40 (a) The power of delegation conferred by **subsection (1)** of this section:
- (b) The power to borrow money conferred by **clause 13** of the **First Schedule** to this Act:
- (c) The power to make, alter, or rescind rules conferred by **section 15** of this Act.
- (5) Any delegation under this section may be made to—

- (a) A specified person; or
- (b) A person belonging to a specified class of persons; or
- (c) The holder for the time being of a specified office or appointment; or
- (d) The holder for the time being of an office or appointment of a specified class. 5
- (6) Subject to any general or special directions given or conditions imposed by the Board, the committee or person to whom any such delegation is made may exercise or perform the delegated functions or powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation. 10
- (7) Every committee or person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation. 15
- (8) Where the Board or any delegate of the Board uses a written document to inform any other person of action taken by a delegate of the Board, that document shall—
 - (a) State that the action was taken by a delegate of the Board; and 20
 - (b) Give the delegate's name and office, or the name of the committee that acted pursuant to the delegation, as the case may be; and
 - (c) State that a copy of the instrument of delegation is available for inspection at the Board's office. 25
- (9) Every delegation under this section shall be revocable at will, but any such revocation shall not take effect until it is communicated to the delegate.
- (10) Until any such delegation is revoked, it shall continue in force according to its tenor, notwithstanding any change in the membership of the Board or of any committee. 30
- (11) No delegation under this section shall prevent the performance or exercise of any function or power by the Board. 35

Cf. 1972, No. 11, s. 12

18. Contracts—(1) The Board shall not enter into any contract for any sum exceeding \$100,000, without the prior written consent of the Minister of Arts and Culture.

(2) Any contract which, if made by private persons, must be by deed shall, if made by the Board, be in writing under the common seal of the Board. 40

(3) Any contract which, if made by private persons, must be signed by the parties to be charged therewith shall, if made by

the Board, be either under the common seal of the Board or signed by a member or officer of the Board on behalf of and by authority of the Board.

5 (4) Any contract which, if made by private persons, may be made orally may be made in the manner specified in subsection (2) of this section as in the case of a deed, or in the manner specified in subsection (3) of this section as in the case of a contract required to be in writing, or may be made orally by or on behalf of the Board by any member or officer of the Board acting by authority of the Board, but no oral contract shall be made for any sum exceeding \$2,000.

10 (5) The Board may by writing under its common seal empower any person, either generally or in respect of any specified matters, to execute instruments on its behalf in any place in or beyond New Zealand. Any instrument executed by such an attorney on behalf of the Board shall bind the Board, and if executed as a deed shall have the same effect as if it were under the common seal of the Board.

15 (6) Notwithstanding anything to the contrary in subsections (2) to (5) of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in manner provided by those subsections, if it was made pursuant to a resolution of the Board or to give effect to a resolution of the Board in relation to contracts generally or in relation to that particular contract.

25 Cf. 1972, No. 11, s. 18

19. Gifts—(1) Any person who is not expressly prohibited from doing so by any enactment, or by the terms of any trust or endowment, may give to the Board any real property, money, or other personal property.

30 (2) The Board may accept any such gift.

(3) For the purposes of this section, “person” includes a local authority within the meaning of the Local Authorities Loans Act 1956, any public body, body corporate, trustee, or unincorporated body of persons.

35 Cf. 1972, No. 11, s. 19

20. Exemption from income tax—The Board shall be exempt from the payment of income tax.

Cf. 1972, No. 11, s. 26

40 **21. Protection of persons acting under authority of Act**—No person who does any act in pursuance or intended pursuance of any of the functions conferred on him or her by

or under this Act shall be under any civil or criminal liability in respect of the act, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care.

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Cf. 1972, No. 11, s. 28

22. Further provisions applying to Board—The provisions set out in the **First Schedule** to this Act shall apply in respect of the Board.

23. Protection of names—(1) No body shall be incorporated or registered under any other enactment or in any other manner, under the following names:

(a) “Museum of New Zealand”:

(b) “Te Papa Tongarewa”:

(c) “National Art Gallery”:

(d) “National Museum”:

(e) Any other name that so resembles any name listed in **paragraphs (a) to (d)** of this subsection, as to be likely to mislead any person.

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(2) No person other than the Board shall, either alone or with any other person or persons,—

(a) Trade or carry on business under any name listed in **paragraphs (a) to (d) of subsection (1)** of this section; or

(b) Trade or carry on business under any other name, knowing that that name so resembles any name listed in **paragraphs (a) to (d) of subsection (1)** of this section, as to be likely to mislead any person.

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(3) Every person who contravenes **subsection (2)** of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or part of a day during which the offence continues.

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Cf. 1972, No. 11, s. 30A; 1981, No. 47, s. 27 (1)

PART II

DISSOLUTION OF BOARD OF TRUSTEES OF THE NATIONAL ART GALLERY, THE NATIONAL MUSEUM, AND THE NATIONAL WAR MEMORIAL

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24. Dissolution of Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial—(1) The Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial

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constituted under section 4 of the National Art Gallery, Museum, and War Memorial Act 1972 is hereby dissolved.

5 (2) No member of the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial shall be entitled to compensation for loss of office resulting from the dissolution of that Board.

25. Assets and liabilities—Subject to **section 40** of this Act, on the commencement of this Act all assets and liabilities of the Board of Trustees of the National Art Gallery, the National
10 Museum, and the National War Memorial shall become assets and liabilities of the Board constituted by **section 6** of this Act.

26. Vesting of assets—(1) Subject to **section 40** of this Act, on the commencement of this Act all real and personal property vested in the Board of Trustees of the National Art Gallery, the
15 National Museum, and the National War Memorial shall vest in the Board constituted by **section 6** of this Act, subject to all liabilities, charges, obligations, or trusts affecting that property.

(2) Subject to **section 40** of this Act, on the commencement of this Act all money payable to the Board of Trustees of the
20 National Art Gallery, the National Museum, and the National War Memorial shall become payable to the Board constituted by **section 6** of this Act.

27. Vesting in Board of land vested in the Crown—The land described in the **Second** Schedule to this Act, being land
25 that, immediately before the commencement of this Act, is vested in the Crown for the purposes of the National Museum, is hereby vested in the Board constituted by **section 6** of this Act.

28. New Zealand Academy of Fine Arts—(1) Subject to **subsection (2)** of this section, the Board constituted by **section 6** of
30 this Act shall continue to make available to the New Zealand Academy of Fine Arts (in this section called the Academy) accommodation in the Buckle Street building vested in that Board by **section 26** of this Act.

(2) The accommodation made available to the Academy
35 under **subsection (1)** of this section shall consist of the areas occupied by the Academy immediately before the commencement of this Act.

(3) If, at any time, the Board constituted by **section 6** of this Act considers that it requires the areas occupied by the
40 Academy under this section, that Board shall notify the

Academy to that effect, and the Academy shall vacate those areas on a date to be agreed by that Board and the Academy.

(4) Until the Academy vacates the accommodation in accordance with subsection (3) of this section, the Board constituted by section 6 of this Act and the Academy shall continue to give effect to the deed made between the Board of Trustees of the National Art Gallery and the Dominion Museum and the Academy on the 27th day of February 1933 (in this section called the deed), a copy of which is recorded in the Department of Internal Affairs at Wellington as IA 1933/216/2.

(5) The deed shall cease to have effect on the date on which the Academy vacates the accommodation.

Cf. 1972, No. 11, s. 16

29. Final accounts of Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial—(1) As soon as reasonably practicable after the commencement of this section, the Secretary shall cause to be prepared final accounts of the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial as at the close of the 30th day of June 1991.

(2) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be sent by the Secretary to the Minister of Arts and Culture and the Minister of Internal Affairs.

(3) A copy of the final accounts, together with a copy of the report of the Audit Office on those accounts, shall be laid before the House of Representatives by the Minister of Arts and Culture as soon as practicable after their receipt by that Minister.

PART III

CONSEQUENTIAL AMENDMENTS AND REPEALS

30. Amendment to Estate and Gift Duties Act 1968—Section 73 (2) of the Estate and Gift Duties Act 1968 is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Any gift to the Museum of New Zealand Board for the purposes of the Museum of New Zealand Act 1990:”.

31. Amendments to Stamp and Cheque Duties Act 1971—(1) Section 13 (1) of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The Museum of New Zealand for the purposes of the Museum of New Zealand Act 1990; or”.

5 (2) Section 14 (1) of the Stamp and Cheque Duties Act 1971 is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The Museum of New Zealand for the purposes of the Museum of New Zealand Act 1990; or”.

10 **32. Amendments to Flags, Emblems, and Names Protection Act 1981**—(1) The Flags, Emblems, and Names Protection Act 1981 is hereby amended by adding to the Third Schedule the following item:

15	“The Museum of New Zealand Act 1990: section 23	‘Museum of New Zealand’, ‘Te Papa Tongarewa’, ‘National Art Gallery’, ‘National Museum’.”
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20 (2) The Flags, Emblems, and Names Protection Act 1981 is hereby further amended by omitting from the Fourth Schedule the item relating to the National Art Gallery, Museum, and War Memorial Act 1972.

25 **33. References to National Art Gallery, Dominion Museum, or National Museum deemed references to Museum of New Zealand**—Every reference to the National Art Gallery, the Dominion Museum, or the National Museum in any enactment passed before the commencement of this Act, or in any document executed before that date, shall, unless the context otherwise requires, be deemed to be a reference to the Museum established by section 5 of this Act.

30 **34. References to Board of Trustees deemed references to Board**—Subject to section 35 of this Act, every reference to the Board of Trustees of the National Art Gallery and the Dominion Museum, or to the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial in any enactment passed before the commencement of this Act, or in any document executed before that date, shall, unless the context otherwise requires, be deemed to be a reference to the Board constituted by section 6 of this Act.

40 **35. References to Board of Trustees deemed references to Secretary**—Every reference to the Board of Trustees of the National Art Gallery and the Dominion Museum, or to the Board of Trustees of the National Art Gallery, the National

Museum, and the National War Memorial in any enactment passed before the commencement of this Act, or in any document executed before that date, shall, in so far as it relates to the Memorial, and unless the context otherwise requires, be read as a reference to the Secretary for Internal Affairs. 5

36. Consequential amendments to other enactments—The enactments specified in the **Third** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

37. Repeals—The enactments specified in the **Fourth** Schedule to this Act are hereby repealed. 10

PART IV

NATIONAL WAR MEMORIAL

38. National War Memorial—The National War Memorial in existence immediately before the commencement of this Act shall continue to be established in the city of Wellington. 15

39. Secretary to control and maintain Memorial—The Secretary for Internal Affairs shall control and maintain the National War Memorial.

40. Vesting of property in the Crown—All real and personal property which is vested in the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial immediately before the commencement of this Act and which relates to the National War Memorial is hereby vested in the Crown for the purposes of the National War Memorial. 20
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National War Memorial Advisory Council

41. National War Memorial Advisory Council—There is hereby established a council to be called the National War Memorial Advisory Council.

Cf. 1972, No. 11, s. 14 (1) (c) 30

42. Functions of Council—The principal functions of the National War Memorial Advisory Council are—

- (a) To manage and control the National War Memorial within the overall policy of the Secretary;
- (b) To advise the Secretary on all matters pertaining to the National War Memorial: 35
- (c) To exercise such powers as are delegated to it by the Secretary for Internal Affairs:

- (d) To prepare and submit annual estimates of expenditure in respect of the National War Memorial for consideration by the Secretary:
- (e) To report at least once in each financial year to the Secretary for Internal Affairs in respect of its activities:
- (f) To carry out all directions, whether special or general, of the Secretary for Internal Affairs.

Cf. 1972, No. 11, s. 14 (4)

10 **43. Membership of Council**—(1) The National War Memorial Advisory Council shall consist of—

- (a) One person to be appointed by the Minister of Internal Affairs:
 - (b) One person to be appointed by the Minister of Internal Affairs on the recommendation of the New Zealand Returned Services' Association (Incorporated):
 - (c) An officer of the Defence Force to be appointed by the Minister of Internal Affairs on the recommendation of the Chief of Defence Force:
 - (d) An officer of the Department of Internal Affairs to be appointed by the Minister of Internal Affairs.
- (2) One member of the National War Memorial Advisory Council shall be appointed as Chairperson by the Minister of Internal Affairs.

25 **44. Term of office**—(1) Subject to **section 45** of this Act, every member of the National War Memorial Advisory Council shall be appointed for a term not exceeding 3 years.

(2) Every member of the National War Memorial Advisory Council shall be eligible for reappointment from time to time.

30 (3) Where the term for which a member of the National War Memorial Advisory Council has been appointed expires, that member, unless sooner vacating or removed from office under **section 39** of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

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

Cf. 1972, No. 11, s. 14 (3)

40 **45. Extraordinary vacancies**—(1) Any member of the National War Memorial Advisory Council may at any time be removed from office by the Minister of Internal Affairs for disability affecting performance of duty, bankruptcy, neglect of

duty, or misconduct, proved to the satisfaction of the Minister of Internal Affairs.

(2) Any member of the National War Memorial Advisory Council may at any time resign his or her office by giving written notice to that effect to the Minister of Internal Affairs. 5

(3) If any member of the National War Memorial Advisory Council dies or resigns or is removed from office, the vacancy so created shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled in the same manner in which the appointment to the vacant office was originally made. 10

(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.

(6) The powers of the National War Memorial Advisory Council shall not be affected by any vacancy in its membership. 15

46. Procedure—Subject to this Act, and to any directions given by the Secretary, the National War Memorial Advisory Council shall determine and regulate its own procedure.

Cf. 1972, No. 11, s. 14 (5) 20

47. Fees and allowances of members of Council—

(1) The National War Memorial Advisory Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There may be paid out of money appropriated by Parliament for the purpose to the members of the National War Memorial Advisory 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. 25 30

Cf. 1972, No. 11, s. 27

Miscellaneous Provisions

48. Protection of names—(1) No body shall be incorporated or registered under any other enactment or in any other manner, under the following names: 35

(a) “National War Memorial”:

(b) “War Memorial, Carillon, and Hall of Memories”:

(c) Any other name that so resembles any name listed in paragraph (a) or paragraph (b) of this subsection as to be likely to mislead any person. 40

(2) No person other than the Secretary for Internal Affairs or the National War Memorial Advisory Council, shall, either alone or with any other person or persons,—

5 (a) Carry on business, or conduct any activities in relation to any name listed in paragraph (a) or paragraph (b) of subsection (1) of this section; or

(b) Carry on business, or conduct any activities in relation to any name knowing that that name so resembles any name listed in paragraph (a) or paragraph (b) of subsection (1) of this section as to be likely to mislead any person.

10 (3) Every person who contravenes subsection (2) of this section commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, and, in the case of a continuing offence, to a further fine not exceeding \$100 for every day or 15 part of a day during which the offence continues.

49. Amendment to Flags, Emblems, and Names Protection Act 1981—The Flags, Emblems, and Names Protection Act 1981 is hereby amended by adding to the Third Schedule, after the item added by section 32 of the Museum of 20 New Zealand Act 1990, the following item:

“The National War Memorial Act 1990: section 48	‘National War Memorial’. ‘War Memorial, Carillon, and Hall of Memories’.”
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25 **50. References to War Memorial, Carillon, and Hall of Memories deemed references to National War Memorial**—Every reference to the National War Memorial, the Carillon, or the Hall of Memories in any enactment passed 30 before the commencement of this Act, or in any document executed before that date, shall, unless the context otherwise requires, be deemed to be a reference to the National War Memorial continued in existence by section 38 of this Act.

SCHEDULES

Section 22

FIRST SCHEDULE

PROVISIONS APPLYING IN RESPECT OF BOARD

1. Meetings—(1) Meetings of the Board shall be held at such times and places as the Board or its Chairperson from time to time appoints, but the Board shall meet at least once in each financial year.

(2) The Chairperson, or any 2 members, may at any time call a special meeting in accordance with **subclause (3)** of this clause.

(3) Not less than 7 days' notice of any special meeting, and of the business to be transacted at that meeting, shall be given to each member of the Board for the time being in New Zealand, and no business other than that specified in the notice shall be transacted at that meeting.

(4) At any meeting of the Board the quorum necessary for the transaction of business shall be 6 members.

(5) At all meetings of the Board its Chairperson shall preside if he or she is present. If the Chairperson and the Deputy Chairperson are absent, the members present shall appoint one of their number to be chairperson of that meeting.

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

(7) At any meeting of the Board, the Chairperson or other person presiding shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.

(8) A resolution signed, or assented to by letter, facsimile transmission, telex, or other method of communication, by no less than 6 members of the Board shall have the same effect as a resolution duly passed at a meeting of the Board.

(9) Subject to the provisions of this Act, and of any rules of the Board made under **section 15** of this Act, the Board may regulate its own procedure.

Cf. 1972, No. 11, s. 10

2. Fees and allowances of members of Board and committees—There may be paid out of money appropriated by Parliament for the purpose to the members of the Board and the members of any committee appointed under this Act 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.

Cf. 1972, No. 11, s. 27

3. Employees—(1) The Board may appoint such employees, including acting, temporary, or casual employees, and employees on secondment from any other organisation, as it thinks necessary for the efficient performance of its functions.

(2) Subject to the terms and conditions of employment, the Board may at any time terminate or suspend the employment of any of its employees.

(3) Employees appointed under **subclause (1)** of this clause shall be employed on such terms and conditions of employment, and shall be paid such salaries and allowances, as the Board from time to time determines.

(4) Any determination under **subclause (3)** of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF BOARD—*continued*

(5) If no date is so specified, the determination shall take effect on the date of the determination.

4. Personnel policy—(1) The Board shall operate a personnel policy that complies with the principle of being a good employer.

(2) For the purposes of this section, a “good employer” is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Recognition of—
 - (i) The aims and aspirations of the Maori people; and
 - (ii) The employment requirements of the Maori people; and
 - (iii) The need for greater involvement of Maori people as employees of the Board; and
- (e) Opportunities for the enhancement of the abilities of individual employees; and
- (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) Recognition of the employment requirements of women; and
- (h) Recognition of the employment requirements of persons with disabilities.

5. Equal employment opportunities—(1) The Board shall—

- (a) Develop and publish in each year an equal employment opportunities programme for the Board; and
- (b) Ensure in each year that the programme for that year is complied with.

(2) For the purposes of this clause and **clause 4** of this Schedule, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

6. Choice of procedure—Where the circumstances giving rise to a personal grievance by a person employed by the Board are also such that that person would be entitled to make a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971, that person may take one, but not both, of the following steps:

- (a) The person may invoke, in relation to those circumstances, the procedures applicable in relation to personal grievances under the Labour Relations Act 1987 or the relevant award or agreement; or
- (b) The person may make, in relation to those circumstances, a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971.

FIRST SCHEDULE—*continued*PROVISIONS APPLYING IN RESPECT OF BOARD—*continued*

7. Superannuation or retiring allowances—For the purpose of providing a superannuation fund or retiring allowances for its employees, or for any of its members, the Board may from time to time pay sums by way of subsidy or contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

8. Application of certain Acts to members and employees—No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reasons only of that person's appointment under clause 3 of this Schedule.

9. Board to be Crown agency for purposes of Public Finance Act 1989—The Board shall be a Crown agency for the purposes of the Public Finance Act 1989, and, notwithstanding anything in section 1 (3) of that Act, Part V of that Act shall apply to the Board as if that Part of that Act were in force on the commencement of this Act.

10. Funds of Board—The funds of the Board shall consist of—

- (a) All money appropriated by Parliament for the purposes of the Museum, and paid to the Board for the purposes of the Museum;
- (b) All money lawfully contributed, donated, or bequeathed to the Board or otherwise lawfully payable to it;
- (c) All money received by the Board by way of fees, rent, or otherwise in respect of any real or personal property vested in or controlled by the Board, or in respect of the performance or exercise of any of the functions or powers of the Board;
- (d) All money received by the Board from the sale or other disposal of any of its real or personal property;
- (e) All accumulations of income derived from any such money.

11. Bank accounts—(1) The Board shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Board, or by any member or employee of the Board for the purposes of the Board, shall, as soon as practicable after it has been received, be paid into such bank accounts of the Board as the Board from time to time determines.

(3) The withdrawal or payment of money from any such accounts shall be authorised in such manner as the Board thinks fit.

(4) Any bank account of the Board shall be operated only by cheque or other instrument signed by a member or an officer of the Board authorised by the Board to do so, and shall be countersigned by another member or officer of the Board authorised to do so.

Cf. 1972, No. 11, s. 20

12. Investment of money—Subject to the terms of any trust or endowment, any money held by or on behalf of the Board and which is not immediately required for expenditure, may be invested—

- (a) In accordance with the provisions of the Trustee Act 1956 as to the investment of trust funds; or

FIRST SCHEDULE—*continued*

PROVISIONS APPLYING IN RESPECT OF BOARD—*continued*

(b) In such other manner as the Board, with the prior approval of the Minister, may determine.

Cf. 1972, No. 11, s. 21; 1988, No. 119, s. 14 (1)

13. Borrowing powers—(1) The Board may, from time to time, borrow money from any bank by way of overdraft.

(2) Without prejudice to **subclause (1)** of this clause, the Board may, with the prior written approval of the Minister of Arts and Culture, borrow money by way of mortgage, debentures, bonds, or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as it thinks fit.

Cf. 1972, No. 11, s. 23

14. Unauthorised expenditure—The Board may, in any financial year, expend for purposes not authorised by this Act or any other enactment, any sum or sums not amounting in the aggregate to more than \$4,000.

Cf. 1972, No. 11, s. 24

SECOND SCHEDULE

Section 27

LAND VESTED IN BOARD

First, all that piece of land containing 1827 square metres, more or less, situated in the City of Wellington, being Lot 27, Deposited Plan 7167, and being all the land comprised and described in certificate of title No. 520/244, Wellington Registry.

Secondly, all that piece of land containing 852 square metres, more or less, situated in the City of Wellington, being Lot 28, Deposited Plan 7167, and being all the land comprised and described in certificate of title No. 520/245, Wellington Registry.

Thirdly, all that piece of land containing 2777 square metres, more or less, situated in the City of Wellington, being Lots 4 to 8, Deposited Plan 3998, and being all the land comprised and described in certificate of title No. 910/19, Wellington Registry.

Fourthly, all that piece of land containing 1.8965 hectares, more or less, situated in the City of Wellington, being Lot 2, Deposited Plan 60890, Wellington Registry.

Section 36

THIRD SCHEDULE
ENACTMENTS AMENDED

Title of Act	Amendment
1968, No. 147—The Local Authorities (Members' Interests) Act 1968 (R.S. Vol. 24, p. 463)	<p>By omitting from Part II of the First Schedule, the item relating to the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial.</p> <p>By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:</p> <p style="padding-left: 40px;">“The Museum of New Zealand Board 1990, No. 00—The Museum of New Zealand Act 1990”.</p>
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	<p>By omitting from Part II of the First Schedule, the item relating to the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial.</p> <p>By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the following item:</p> <p style="padding-left: 40px;">“The Museum of New Zealand Board.”</p>
1983, No. 130—The Films Act 1983	<p>By omitting from Part II of the Schedule, the item relating to the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial.</p> <p>By inserting in Part II of the Schedule, in its appropriate alphabetical order, the following item:</p> <p style="padding-left: 40px;">“The Museum of New Zealand Board.”</p>

FOURTH SCHEDULE

Section 37

ENACTMENTS REPEALED

- 1972, No. 11—The National Art Gallery, Museum, and War Memorial Act 1972. (R.S. Vol. 23, p. 739.)
- 1978, No. 114—The National Art Gallery, Museum, and War Memorial Amendment Act 1978. (R.S. Vol. 23, p. 754.)
- 1988, No. 119—The Trustee Amendment Act 1988: So much of the Second Schedule as relates to the National Art Gallery, Museum, and War Memorial Act 1972.
- 1989, No. 44—The Public Finance Act 1989: So much of the First Schedule as relates to the National Art Gallery, Museum, and War Memorial Act 1972.