

Annex 1 | **Ministry of Culture Act**

Ministry of Culture Act 1990



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1990, No. 7

An Act to establish the Ministry of Cultural Development

(30 November 1990)

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

PART I
PRELIMINARY

1. Short Title – This Act may be cited as the Ministry of Cultural Development Act 1990

2. Interpretation – In this Act, unless the context otherwise requires, -
“Chairman” means the Chairman of the National Arts Council;
“Deputy Chairman” means the Deputy Chairman of the National Arts Council;
“Financial year” has the meaning given to it in section 2 of the Ministry of Finance and Economic Management Act 1995-96;
“Kopapa Reo” has the meaning given to it in section of the Te Reo Maori Act 2003.

(1) In section 9, the expression “this Act” includes the Te Reo Maori Act 2003;

“Minister” means the Minister of Cultural Development;
“Ministry” means the Ministry of Cultural Development established by this Act;
“Secretary” means the Secretary of the Ministry
“The Council” means the National Arts Council established under this Act.
[Amended Act 2003/1]

PART II
ESTABLISHMENT

3. Ministry of Cultural Development -

(1) There shall be a Ministry of State to be known as the Ministry of Cultural Development which, under the control of the Minister, shall be charged with the objectives and functions set out in Section 4 and such other objectives and functions as may be lawfully conferred on the Ministry

(2) The Ministry shall comprise such divisions having such functions not inconsistent with this Act as may from time to time be prescribed by regulations.

4. Principal objectives and functions of the Ministry -

(1) The principal objectives of the Ministry shall be to –

(a) preserve, perpetuate and enhance the Cook Islands cultural heritage in order to uphold tradition and develop an appreciation for this important national resource;

(b) encourage the growth and expansion of productive economic, social and educational activities as may enhance cultural art forms;

(c) present where appropriate, the varied elements of ancient and contemporary Cook Islands art and cultural forms;

(d) to maintain the unique cultural national identity of the people of the Cook Islands.

(1A) In addition, the Ministry has the principal objectives specified in section 6(1) of the Te Reo Maori Act 2003.

(2) The principal functions of the Ministry shall be to –

(a) encourage, promote, support and develop the standards in the arts;

(b) encourage, promote, and develop the practice and appreciation of the Cook Islands Arts and Culture;

(c) make accessible to every person in the Cook Islands as far as may be practicable, all forms of artistic activity;

(d) carry out or oversee as appropriate all activities of the Library and Museum, Archives, Anthropological Services, National Arts Council, Constitution Celebrations, Audio-Visual Recording Unit and Tuanga Reo (as established by regulations made under this Act), and such other related responsibilities as may be added from time to time and be prescribed in any enactment;

(e) carry out the Ministry's activities in co-operation with other relevant government departments and various national and international interest groups;

(f) 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;

(g) collect, examine, disseminate, or publish any information relating to the arts or to any particular form of art;

(h) advise the Minister on any matter relating to or affecting the objectives and functions of the Ministry;

(i) with the written consent of the Minister establish trust accounts in such manner as may be recommended by the Council and approved by the Audit officer.

(2A) In addition, the Ministry has the principal function specified in section 6(2) of the Te Reo Maori Act 2003.

[Amended Act 2003/1]

5. Minister of Cultural Development – The Minister of Cultural Development shall be responsible for the policy of the Ministry and its control, and such other functions as may be conferred upon him by this or any other Act.

6. Advisory and Technical Committees –

(1) The Minister may from time to time with the concurrence of Cabinet appoint, discharge, alter, continue or reconstitute advisory or technical committees to advise the Minister and Cabinet on matters concerning the functions of the Ministry.

(2) A person may be appointed to be a member of a committee under this section, notwithstanding that he is not an officer or employee of the Ministry of the Council.

(3) Subject to any directions given by the Ministry or Cabinet, every such committee shall determine its own procedure.

(4) There shall be paid to the members of the any such committee (other than persons in the employ of the Government travelling allowances and expenses as may from time to time be fixed by the Queen's Representative by Order in Executive Council.

7. Delegation of powers by Minister –

(1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him as minister of Cultural Development by this Act or any other enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 10 of this Act.

(2) Subject to any general or special direction given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him under this section in the same manner and by this section and not by delegation.

(3)

Where the Secretary purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

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

(5) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the person for the time being directed to act in the place of the Secretary.

8. Secretary of Cultural Development – There shall from time to time be appointed under the Public Service Act 1995-96 a Secretary of Cultural Development who shall be the administrative head of the Ministry.

[Amended Act 2003/1]

9. Duties of Secretary – The principal duties of the Secretary shall be –
- (a) to exercise those powers vested in him by this Act and any regulations made under it, and those powers delegated to him by the Minister;
 - (b) to ensure that the functions of the Ministry, as set out in Section 4, are effectively carried out;
 - (c) to administer the provision of this Act and any regulations made under it; to issue such instructions to officers, and employees of the Ministry as may be required to give full effect to this Act and any regulations made under it; to plan for cultural development in the Cook Islands for such period and in such detail as the Minister may from time to time require; to regularly advise the Minister on cultural development requirements in the Cook Islands;
 - (d) to implement policies referred to him by the Minister.

10. Delegation of powers by the Secretary –

- (1) The Secretary may from time to time, by writing under his hand either generally or particularly, delegate to such officer or officers, employee or employees of the Ministry as he thinks fit all or any of the powers exercisable by him under any enactment, but not including this present power of delegation;

Provided that the Secretary shall not delegate any power delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the Public Service Act 1995-96 without the written consent of the Public Service Commissioner.

- (2) Every person 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.

- (3) Any delegation under this section may be made to a specified officer or employee or to officers or employees of the specified class, or may be made to the holder or holders for the time being of a specified office or class of officers.

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

- (5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

- (6) Subject to any general or special directions given or conditions attached by the Secretary, the officer or employee to whom any powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

[Amended Act 2003/1]

11. Officers and employees of the Ministry – There shall from time to time be appointed under the Public Service Act 1995-96 such other officers and employees of the Ministry as may be necessary.

[Amended Act 2003/1]

12. Officers to act under direction of Secretary – All officers and employees of the Ministry shall act under the direction of the Secretary in the exercise and performance of the powers, duties, and functions conferred or imposed on them by any enactment the administration of which the Ministry or the Secretary is charged by this Act or any other enactment.

PART III **NATIONAL ARTS COUNCIL**

13. National Arts Council –

(1) There is hereby established a Council, to be called the National Arts Council, which shall be responsible to the Ministry of Cultural Development in an advisory capacity on matters relating to cultural development in the Cook Islands and in particular matters of the kind referred to in Section 4 of this Act.

(2) The Council shall consist of –

(a) three persons who shall be appointed by the minister one of whom shall be

(b) appointed by the minister as chairman.

one person who shall be appointed by the Minister taking into account the recommendations of the House of Ariki;

(c) one person who shall be appointed by the Minister from non-Government organisations such as Library and Museum Society;

(d) one person being an officer responsible for cultural development of the Department of Education who is for the time being approved for that purpose by the Minister of Education;

(e) one person who shall be appointed by the Minister taking into account the

(f) recommendation of the Koutu Nui.

[Amended Act 1994/6]

14. 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 2 years from the dates of their respective appointments but may from time to time be re-appointed.

(2) The Chairman and other appointed members, unless they sooner vacate their offices under Section 25 of this Act, shall continue in office until their respective successors come into force.

15. 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 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 of which his predecessor was appointed.

16. 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 reappointed.
- (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 of this so acting had not arisen or had ceased.

17. Meetings of the Council –

- (1) The Council shall meet at least 4 times in each 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 determines.
- (4) The Chairman may at any time call a special meeting of the Council, and in any event shall call a special meeting of the Council whenever requested in writing by any 2 members to do so.

(5) 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 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.

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

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

(8) 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 member to preside.

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

(10) 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.

(11)

Notwithstanding subsection (9) 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 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.

(12)

Subject to the other provisions of this Act and to any regulations made thereunder, the Council may regulate its own procedure in such manner as it thinks fit.

18. Ministry to assist Council – (1) The Minister shall assist the Council or any committee thereof by the provision of such secretarial and other services of an administrative nature as the Secretary may deem appropriate.

19. Rules –

(1) The Ministry 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 such other matters as may be necessary or expedient for assisting the carrying out of the functions of the Ministry.

(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.

PART IV

CULTURAL DEVELOPMENT FUND

20. Cultural Development Fund – The Cultural Development Fund shall consist of the following money –

all money paid to the Ministry under Section 12 of the Entertainment Tax Act 1975;

all money lawfully contributed or donated to the Ministry or otherwise lawfully payable to the Ministry;

all money received by the Ministry by way of fees, rent or otherwise in respect of any real or personal property owned or controlled by the Ministry or in respect of the exercise of any of the functions or powers of the Ministry;

(c) all accumulations of money belonging to the Cultural Development fund.

21. Disbursement of funds –

(1) The funds referred to in Section 20 shall be disbursed by the Ministry for the following purposes –

(a) 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 recommended by the Council whether within or beyond the Cook Islands;

grants or pay subsidies, or such conditions as it thinks fit, to Island Councils, Village Communities, 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, on the recommendation of the Council;

awards to persons for outstanding accomplishment in the arts, whether within or beyond the Cook Islands; commissioning the creation or execution of any artistic works, whether within or beyond the Cook Islands; to 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 Ministry thinks fit. To arrange for or undertake any artistic exhibition or performance, whether within or beyond the Cook Islands.

22. Money to be banked – All money forming part of the funds of the Cultural Development

Fund shall as soon as practicable after it is received, be paid into the Cook Islands Government Account.

23. Special Funds – Where any funds are donated granted or otherwise provided to or for

the purposes of the Ministry for any special or particular purpose, such money may, with the approval of the Financial Secretary, and subject to such conditions as the Financial Secretary may impose, be kept in a separate imprest or other account within the Cook Island Government Account, to be used only for the special purposes or purposes for which it was donated or granted.

24. Trustees –

(1) The Minister shall in writing appoint not more than 3 trustees for such term or terms as the Minister thinks fit, for the purposes set out in subsection (2).

(2) The trustees shall be responsible for the administration of the Cultural Development Fund, and for any trust account established pursuant to section 4(2)(i), in accordance with the objectives and functions of the Ministry. Notwithstanding any other provision in this Act, the Secretary of Cultural

(3)

Development may with the approval of the Financial Secretary, open and operate one bank account at such a bank, and subject to such terms and conditions as the Financial Secretary may approve. Any bank account so opened and operated shall be subject to audit in the same manner as the Cook Islands Government Account.

25. Accounts –

(1) The Ministry shall keep full and correct accounts of all money received and expended by it.

(2) The Ministry 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 Ministry as at the end of that financial year, together with an account of income and expenditure showing the financial transactions of the Ministry that financial year.

26. Audit and taxation –

(1) The accounts of the Ministry and any special funds held pursuant to section 23, shall be subject to audit by the auditors appointed by or pursuant to Article 71 of the Constitution.

(2) The Cultural Development Fund shall be exempt from income tax.

[Part IV repealed and replaced by Act 1993-94/16]

PART V

ADMINISTRATION

27. Funds of the Ministry - There shall be paid out of the moneys from time to time appropriated by Parliament such moneys as are required by the Ministry to give effect to the provisions of this Act.

28. Annual Report –

(1) The Secretary shall as soon as practicable after the end of each financial year furnish to the Minister a report on the finances and operations of the Ministry and the work of Kopapa Reo for that year.

(2) A copy of the report shall be laid before Parliament within 14 days after it has been furnished to the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within 14 days after the commencement of the next ensuing session.

[Amended Act 2003/1]

29. Regulations –

(1) The Queen’s Representative may from time to time, by Order in Executive Council, make all such regulations as may be necessary or expedient for the purpose such regulations as may be necessary or expedient for the purpose of giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before Parliament within 14 day after the date of the making thereof if Parliament is then in session, and, if Parliament is not then in session, shall be laid before Parliament within 14 days after the commencement of the next ensuing session.

30. Transitional –

(1) In this section, “the former Ministry” means the National Arts Council established by the National Arts Council Act 1981-82.

(2) Upon the date of coming into force if this Act, -

all assets and liabilities of the former Ministry shall be transferred to and vest in the Crown without further assurance than this section and the Secretary shall have all powers necessary to take possession of, recover and deal with such assets and discharged such liabilities;

Every agreement, whether in writing or not and every deed, bond or other instrument to which the former Ministry was a party or which affected the former Ministry and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Crown were a party thereto or affected thereby instead of the former Ministry, as if or every reference (however worded and whether express or implied) therein to the former Ministry, there were substituted in respect of anything to be done on or after such date of coming into force a reference to the Crown.

31.

Savings – Notwithstanding the repeal of the National Arts Council Act 1981-82, any document or declaration made or anything whatsoever done pursuant to that Act shall, so far as it is subsisting or in force at the date of commencement of this Act shall be deemed to have been made under this Act.

32. Repeals – The National Arts Council Act 1981-82 is hereby repealed.

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An Act –

- (a) To declare Maori an official language of the Cook Islands; and
- (b) To establish Te Kopapa Reo Maori and define its functions and powers; and
- (c) To give the Ministry of Cultural Development additional objectives and functions.

(9 April 2003)

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 and commencement –

- (1) This Act may be cited as the Te Reo Maori Act 2003.
- (2) This Act comes into force on 1 July 2003, unless it is earlier brought into force on a date appointed by the Queen’s Representative by Order in Executive Council

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

“Applicant” means a person who applies for a certificate of competency,

“Certificate of competency” means a certificate of competency issued under this Act;

“Communication”, in relation to Maori, means –

- (a) The oral form of Maori;
- (b) The written form of Maori;

“Financial year” has the meaning given to it in section 2 of the Ministry of Finance and Economic Management Act 1995-96;

“Kopapa Reo” means Te Kopapa Reo Maori (the Maori Language Commission) established by **section 7**; “Maori” –

- (a) Means the Maori language (including its various dialects) as spoken or written in any island of the Cook Islands; and
- (b) Is deemed to include Pukapukan as spoken or written in Pukapuka; and
- (c) Includes Maori that conforms to the national standard for Maori approved by Kopapa Reo;

“Minister” means the Minister of Cultural Development;

“Ministry” means the Ministry of Cultural Development established by the Ministry of Cultural Development Act 1990;

“Secretary” means the Secretary of the Ministry;

3. Act binds Crown - This Act binds the Crown

Maori as an official language

4. Maori to be an official language - Maori is an official language of the Cook Islands.

5. Effect of declaration - Nothing in section 4 –

- (a) Affects the status of English as an official language of the Cook Islands; or
- (b) Affects any right that any person has, otherwise than by virtue of that section to receive or impart any communication in Maori; or
- (c) Affects the right of any linguistic or dialectal community in the Cook Islands to use the language or dialect of that community.

6. Additional objectives and functions of Ministry of Cultural Development –

(1) The Ministry has the following principal objectives:

- (a) To give effect to the declaration that Maori is an official language of the Cook Islands;
- (b) To bring about a status for Maori that is equal to English in the Cook Islands;

(2) The Ministry has a principal function of assisting Kopapa Reo to carry out its functions and duties under this Act (including providing secretarial and administrative services to Kopapa Reo)

7. Establishment and membership of Te Kopapa Reo Maori –

(1) This subsection establishes a commission to be called Te Kopapa Reo Maori (the Maori Language Commission)

(2) Kopapa Reo comprises the following members appointed by the Minister:

- (a) The person for the time being holding the position of Secretary of the Ministry of Cultural Development or another position within that Ministry nominated by the Secretary;
- (b) The person for the time being holding the position of Secretary Education or another position within the Ministry of Education nominated by the Secretary of Education;
- (c) One person recommended by the House of Arikis;
- (d) One person who the Minister considers to be competent to represent the interests of women; and
- (e) One person who the Minister considers to be competent to represent the interests of youth.

(3) Kopapa Reo is not regarded as an advisory or technical committee for the purposes of the Ministry of Cultural Development Act 1990

8. Functions of Kopapa Reo - Kopapa Reo has the following functions:

- (a) To create, and update as necessary, a national standard for Maori on matters such as phonetics, grammar, vocabulary (including coining new words if necessary), orthography, and the alphabet;
- (b) To publish a notice in the *Cook Islands Gazette* and any other media considered appropriate when Kopapa Reo formally approves the standard or an update to the standard (such notice setting out where copies of the standard or update can be purchased);
- (c) To act as the national authority on the standard;
- (d) Subject to **section 13**, to grant certificates of competency and perform the functions conferred by this Act relating to such certificates;
- (e) To advise the Ministry on what Kopapa Reo considers the most effective ways to give effect to the principal objectives and principal function of the Ministry specified in **section 6**;
- (f) To consider, and report to the Secretary on, any matter relating to Maori that-
- (i) The Secretary may from time to time refer to Kopapa Reo for its advice; or
- (ii) Kopapa Reo considers necessary or desirable
- (g) To perform any other functions conferred on Kopapa Reo by regulations made under this Act.

9. Kopapa Reo to report annually to Secretary - Kopapa Reo must, within one month of the end of each financial year, make a written report to the Secretary on its work during the financial year.

10. Further provisions relating to Kopapa Reo - The provisions in Schedule 1 apply to Kopapa Reo and its affairs

Certificates of competency

11. Kopapa Reo to grant certificates of competency -

- (1) Kopapa Reo may grant certificates of competency for the following:
 - (a) Competency in Maori or any dialect or branch of it;
 - (b) A specific competency (for example, interpretation or translation) in relation to Maori or any dialect or branch of it.
- (2) On the payment of prescribed fees (if any), a certificate of competency must be granted to any applicant who satisfies Kopapa Reo that he or she is qualified to be the holder of such a certificate.

12. Qualifications for certificates of competency - For the purpose of determining whether or not an applicant is qualified to be the holder of a certificate of competency, Kopapa Reo must prepare, and publish in such a manner as it thinks fit, standards and other criteria by which the relevant competency will be assessed.

13. Kopapa Reo to delegate power to grant certificates of competency -

- (1) Notwithstanding section 11, but subject to any regulations made under section 21 (1)(c), Kopapa Reo may from time to time delegate any person the power to assess applicants and to grant certificates of competency.
- (2) Subject to any directions given by Kopapa Reo, a person to whom Kopapa Reo delegates any power under this section may exercise that power in the same manner and with the same effect as if that power had been conferred directly by this Act and not by delegation.
- (3) Kopapa Reo may not delegate a power under this section except –
 - (a) By unanimous resolution of its members; and
 - (b) In accordance with regulations (if any) made under this Act.
- (4) A delegation made under this section –
 - (a) May be revoked by Kopapa Reo at any time (without requiring unanimous resolution of its members); and
 - (b) Does not prevent Kopapa Reo exercising the power delegated.
- (5) Subject to the foregoing provisions of this section, Kopapa Reo must –
 - (a) As soon as Kopapa Reo finds a suitable person, delegate the power referred to in subsection (1) to that person; and
 - (b) As far as practicable, ensure that at any given time there is at least 1 person whom that power is delegated.

14 Complaints against holders of certificates of competency -

- (1) Any person may lodge with Kopapa Reo a complaint against the holder of any certificate of competency on the ground that the holder has exhibited such incompetence as to call into question the holder's qualification to hold that certificate.
- (2) Except where Kopapa Reo is satisfied that the complaint is frivolous or vexatious, Kopapa Reo must give or send a copy of the complaint to the person to whom it relates, and must give that person a reasonable opportunity to appear before Kopapa Reo, or (at that person's option) to make written submissions to Kopapa Reo, in answer to the complaint.
- (3) If, after investigating any complaint under subsection (1), Kopapa Reo is satisfied that the person to whom the complaint relates is not qualified to hold the certificate of competency, it may –
 - (a) Cancel the certificate of competency; or
 - (b) Suspend the certificate of competency until such time as Kopapa Reo is satisfied that the person is qualified to hold the certificate.
- (4) Kopapa Reo must, as soon as practicable after deciding to take any action under subsection (3), give to the person concerned notice in writing of its decision and of the reason for it.
- (5) Where Kopapa Reo decides to cancel, suspend, or endorse a certificate, it must, in the notice given under subsection (4), require the holder to surrender the certificated to Kopapa Reo for appropriate administrative action.

Miscellaneous

15. Kopapa Reo to have regard to Government policy -

- (1) In the performance of its functions under this Act, Kopapa Reo must have regard to the general policy of the Government in relation to Maori, as that policy is communicated to the Secretary from time to time by the Minister by notice in writing.
- (2) As soon as practicable after receiving a notice under subsection (1), the Secretary must –
 - (a) Forward a copy of it to Kopapa Reo; and
 - (b) Publish a copy of it in the *Cook Islands Gazette*.

16. Responsibilities of other persons unaffected - Nothing in any of the foregoing provisions of this Act affects any responsibility that any Minister of

the Crown or any other person had immediately before the passing of this Act for any matter relating to Maori.

17. Money to be appropriated by Parliament for purposes of this Act - All remuneration, allowances, expenses, and other expenditure payable or incurred under or in the administration of this Act are payable out of money to be appropriated by Parliament for the purpose.

18. Protection of members of Kopapa Reo -

- (1) No member of Kopapa Reo is personally liable for any act done or omitted by the member in good faith in the course of the operations of Kopapa Reo.
- (2) Any liability that would but for this section lie against a member of Kopapa Reo lies against the Crown.

19. Offence - Every person who commits an offence and is liable on conviction to a fine not exceeding \$500 who, being required under **section 14(5)** to surrender to Kopapa Reo any certificate, fails without reasonable excuse to do so.

20. Orders in the Executive Council for Schedule 1 purposes - The Queen's Representative may from time to time make an Order in Executive Council for the purposes of clause 4(2) or 6 of Schedule 1.

21. Regulations -

- (1) The Queen's Representative from time to time, by Order in Executive Council, make regulations for all or any of the following purposes:
 - (a) Prescribing fees in respect of –
 - i. The conducting of examinations for certificates of competency; and
 - ii. Applications for, and the issuing of, certificates of competency; and
 - iii. Any other service provided by Kopapa Reo in respect of applications for certificates of competency
 - (b) Prescribing the procedures to be followed in respect of applications for certificates of competency;
 - (c) Restricting or otherwise regulating Kopapa Reo's power to make a delegation under section 13;
 - (d) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.
- (2) No regulation may be made under subsection (1)(a) or (b) except on the advice of the Minister tendered on the recommendation of Kopapa Reo.

22. Consequential amendments to Ministry of Cultural Development Act 1990 –
The Ministry of Cultural Development Act 1990 is consequently amended in the manner indicated in Schedule 2.

This Act is administered by the Ministry of Cultural Development

SCHEDULE 1

Section 10

PROVISIONS APPLYING TO KOPAPA REO AND ITS AFFAIRS

1. Term of office of members

- (1) Every member of Kopapa Reo must be appointed for a term not exceeding 3 years, but may from time to time be reappointed.
- (2) A member may resign at any time by notice in writing addressed to the Minister.
- (3) The following are deemed to have vacated office as a member:
 - (a) A member who is absent from 3 consecutive meetings of Kopapa Reo without its leave;
 - (b) A member appointed under section 7 (2)(a) or (b) by virtue of holding a position, who, for any reason, ceases to hold the position.
- (4) The Minister may at any time remove any member from office for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct, notwithstanding the expiry of the term for which the member was appointed.
- (5) Every member, unless the member dies, or resigns, vacates, or is removed from office, continues to hold office until the member's successor comes into office notwithstanding the expiry of the term for which the member was appointed.
- (6) The functions and powers of Kopapa Reo are not affected by any vacancy in its membership.

2. Chairman and Deputy Chairman

- (1) The Minister must from time to time appoint 1 member of Kopapa Reo its Chairman.
- (2) At its first meeting in each year, Kopapa Reo must elect another of its members to be its Deputy Chairman.
- (3) A member who holds office of Chairman or Deputy Chairman continues in office until his or her successor is appointed or elected under subclause (1) or (2) of this clause, and is eligible for reappointment or reelection.

- (4) A member who holds office of Chairman may at any time –
 - (a) Be removed from the office of Chairman by the Minister; or
 - (b) Resign his or her office giving a notice to that effect to the Minister.

- (5) A member who holds office of Deputy Chairman may at any time –
 - (a) Be removed from the office of Chairman by the Minister; or
 - (b) Resign his or her office giving a notice to that effect to the Minister.

- (6) If a person who holds office of Chairman ceases to be a member of Kopapa Reo, the Minister must appoint 1 member to fill that vacancy in the office of Chairman as soon as reasonably practicable.

- (7) If a person who holds office of Deputy Chairman ceases to be a member of Kopapa Reo, the Minister must appoint 1 member to fill that vacancy in the office of Deputy Chairman as soon as reasonably practicable.

3. Deputy Chairman may act for Chairman

- (1) The Deputy Chairman of Kopapa Reo has and may exercise or perform all the functions, duties, and powers of the Chairman of Kopapa Reo if –
 - (a) The Chairman is at any time incapable of acting as Chairman because of illness, absence, or any other reason; or
 - (b) There is a vacancy in the office of Chairman.
- (2) The Deputy Chairman must, while acting for the Chairman, be regarded as the Chairman.
- (3) No act done by the Deputy Chairman while acting for the Chairman and no act done by Kopapa Reo while the Deputy Chairman is acting for the Chairman, may in any proceedings be questioned on the ground that the occasion entitling the Deputy Chairman to act had not arisen or had ceased.

4. Meetings of Kopapa Reo

- (1) Subject to clause 3 and the succeeding provisions of this clause, the Chairman must –
 - (a) Convene such meetings of Kopapa Reo as the Chairman thinks necessary for the efficient performance of the functions of Kopapa Reo; and
 - (b) Appoint the time and place at which the meetings are to be held; and
 - (c) Preside at all meetings of Kopapa Reo.
- (2) The Chairman must convene meetings of such frequency as determined from time to time by the Queen's Representative by Order in Executive Council, or, in the absence of such an order, at the frequency of at least 1 meeting in each month.
- (3) Any 2 members may at any time call a special meeting of Kopapa Reo by giving each member for the time being in the Cook Islands a written notice stating –
 - (a) The time and place of the meeting; and
 - (b) The business to be transacted at it.
- (4) The members must be given –

- (a) At least 7 days' notice of the special meeting; or
 - (b) If they are satisfied that the business to be transacted is urgent, any shorter period of notice to which all members entitled to be notified agree.
- (5) No business other than that specified in a notice of special meeting may be transacted at a special meeting.
- (6) At any meeting of Kopapa Reo, the quorum necessary for the transaction of business is 3 members.
- (7) All questions arising at any meeting of Kopapa Reo must be decided by a majority of votes of the members present and voting.
- (8) The presiding member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (9) The members present must appoint 1 of their number ("the appointee") to preside at a meeting if –
- (a) The Chairman and Deputy Chairman are not present; or
 - (b) There is no Chairman and no Deputy Chairman.
- (10) The appointee must, while presiding at the meeting, be regarded as the Chairman.
- (11) No act done by the appointee while presiding at the meeting and no act done by Kopapa Reo while the appointee is so presiding may in any proceedings be questioned on the ground that the occasion requiring the appointment to be made had not arisen or had ceased.
- (12) Kopapa Reo may meet in private or in public, as it from time to time decides.
- (13) Kopapa Reo must cause such notice as it thinks fit to be given of public meeting of Kopapa Reo to persons likely to be interested in the subject-matter of the meeting.

5. Assent to resolution without a meeting

- (1) A resolution in writing signed, or assented to by letter, telegram, cable, telex, or email, by every member of Kopapa Reo is as valid and effectual as if it had been passed at a meeting of Kopapa Reo duly called and constituted.
- (2) Subclause (1) of this clause does not apply unless the Chairman has endorsed the resolution to the effect that the signature or assent of members is being obtained in that way due to exception circumstances that, in the Chairman's opinion, require urgent action.

6. Remuneration, allowances, and expenses of members of Kopapa Reo

- (1) Members of Kopapa Reo must be paid such remuneration, allowances, and expenses as determined from time to time by the Queen's Representative by Order in Executive Council.
- (2) The determination –
 - (a) May be made either generally or in respect of any particular member of members of Kopapa Reo;
 - (b) Takes effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the Order in Executive Council

SCHEDULE 2

Section 22

CONSEQUENTIAL AMENDMENTS TO MINISTRY OF CULTURAL DEVELOPMENT ACT 1990

Section 2

By inserting, in the appropriate alphabetical order, the following definitions:
“Financial year” has the meaning given to it in section 2 of the Te Reo Maori Act 2003
“Kopapa Reo” has the meaning given to it in section 2 of the Te Reo Maori Act 2003
By adding the following subsection (2) In section 9, the expression “this Act” include the Te Reo Maori Act 2003”

Section 4

By inserting, after subsection (1), the following subsection:
“(1A) In addition, the Ministry has the principal objectives specified in section 6(1) of the Te Reo Maori Act 2003”
By inserting, after the words “shall be” in subsection (2), the word “to”.
By inserting, after the expression “Audio-Visual Recording Unit” in paragraph (d) of Subsection (2), the expression “and Tuanga Reo (as established by regulations made under this Act),”.
By inserting, after subsection (2), the following subsection:(2A) In addition, the Ministry has the principal function specified in section 6(2) of the Te Reo Maori Act 2003.”

Section 28

By inserting in subsection (1), after the words “the Ministry”, the words “and the work of Kopapa Reo”.

Sections 8, 10(1), and 11

By omitting the expression “Public Service Act 1975”, and substituting the expression “Public Service Act 1995-96”.