

CHAPTER N-3.1

New Brunswick Arts Board Act

Assented to November 9, 1996

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Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1 In this Act

"Board" means the New Brunswick Arts Board-Conseil des arts du Nouveau-Brunswick established under section 2;

"Minister" means the Minister of Economic Development, Tourism and Culture.

1992, c.2, s.42; 1998, c.41, s.86.

2 There is hereby established a body corporate to be known as the New Brunswick Arts Board-Conseil des arts du Nouveau-Brunswick.

3 The purposes of the Board are

- (a) to facilitate and promote the creation and production of art and the enjoyment, awareness and understanding of the Arts in New Brunswick, by
 - (i) providing, through the Minister, advice to the government on policy respecting the Arts and on matters relating to the Arts,
 - (ii) unifying and speaking for the arts community, and
 - (iii) improving participation in and support for the Arts,
- (b) to make decisions respecting programs and the funding for those programs, in consultation with the Minister, for the purposes set out in this section, and to carry out those decisions,
- (c) to provide financial assistance to individuals and organizations for the purposes set out in paragraphs (a), (b) and (d),
- (d) to receive gifts of real and personal property, including grants of money, to promote artistic creation and excellence in the Arts,
- (e) to establish and operate a system of peer assessment, a jury system or another method of evaluation of the artistic merit of works, projects and proposals with respect to activities and with respect to the selection of new acquisitions for the New Brunswick Art Bank,
- (f) to consult with, assist and co-operate with any individual or organization in relation to the purposes set out in paragraph (a), (b) or (d), and
- (g) to carry out such other activities or duties in relation to the Arts as the Minister may direct or as the Board may determine.

1998, c.24, s.3; 1999, c.27, s.1.

4 For the purposes set out in section 3, the Board has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

5 The Board shall have a corporate seal which it may alter or change at pleasure.

6(1) The Board shall consist of fourteen persons, namely

- (a) nine persons appointed by the Minister, each of whom shall
 - (i) meet the criteria for members that the Board has established in its by-laws,
 - (ii) be selected, in accordance with the by-laws, by a nominating committee of the Board, and
 - (iii) be proposed to the Minister by the Board,
- (b) three persons appointed by the Lieutenant-Governor in Council on the recommendation of the Minister, each of whom shall meet the criteria for members that the Board has established in its by-laws,
- (c) a person designated by the Minister to act on the Minister's behalf, who shall be an *ex officio* but non-voting member of the Board, and
- (d) the Director, who shall be an *ex officio* but non-voting member of the Board.

6(2) At least seven of the nine members appointed by the Minister under paragraph (1)(a) shall be professional artists or be representatives of organizations of professional artists.

6(3) A member of the Board appointed under paragraph (1)(a) or (b)

(a) shall be appointed for a term not to exceed three years,

(b) may be reappointed, but shall not hold office for more than two terms consecutively, and

(c) may not serve a third term until three years pass after the end of the second term.

6(4) Notwithstanding paragraph (3)(a), appointments shall be made so that the terms of three of the members appointed under paragraph (1)(a) and the term of one of the members appointed under paragraph (1)(b) expire each year.

6(5) A member of the Board shall remain in office, notwithstanding the expiry of the member's term, until the member resigns or is reappointed or replaced.

6(6) A member of the Board appointed under paragraph (1)(a) may be removed for cause by the Minister.

6(7) Where a vacancy occurs among the members of the Board appointed under paragraph (1)(a), the Minister may, in the same manner in which the Minister made the appointment under that paragraph, appoint a person to fill the vacancy for the balance of the term of the member replaced.

6(8) A member of the Board appointed under paragraph (1)(b) may be removed for cause by the Lieutenant-Governor in Council.

6(9) Where a vacancy occurs among the members of the Board appointed under paragraph (1)(b), the Lieutenant-Governor in Council, on the recommendation of the Minister, may appoint a person to fill the vacancy for the balance of the term of the member replaced, in the same manner in which the Lieutenant-Governor in Council made the appointment under paragraph (1)(b).

6(10) The members of the Board shall, in accordance with the by-laws, elect annually from among their voting members

(a) one chairperson,

(b) a first vice-chairperson, who shall act in the place of the chairperson when the chairperson is for any reason unable or unwilling to act,

(c) a second vice-chairperson, who shall act in the place of the chairperson when the first-vice-chairperson is for any reason unable or unwilling to act on behalf of the chairperson, and

(d) a secretary-treasurer.

6(11) The chairperson shall not hold office for more than three consecutive years in any six year period.

6(12) The chairperson may vote on a motion at a meeting of the Board and, in the event of a tie in the votes, shall have a second or casting vote in addition to his or her original vote.

6(13) In matters coming before the Board, a member shall always act in the best interests of the Board in supporting the purposes set out in section 3, whether or not those interests are the same as the interests of a particular sector, discipline or organization of the Arts.

1992, c.2, s.42; 1995, c.35, s.1; 1998, c.41, s.86; 1999, c.27, s.2.

6.1 The Board may employ persons, including a director, to enable it to carry out the purposes set out in section 3.

1998, c.24, s.3; 1999, c.27, s.3.

7 A majority of the voting members of the Board constitutes a quorum.

1999, c.27, s.4.

8 A vacancy on the Board does not affect the power of the Board to act.

9 The Lieutenant-Governor in Council may

(a) authorize the payment of honoraria to the members of the Board, and

(b) fix the rate for reimbursement of expenses incurred by the members of the Board while acting on behalf of the Board.

10 The Board may from time to time organize a forum of the arts community for the purpose of

(a) Repealed: 1999, c.27, s.5.

(b) hearing briefs from the arts community, and

(c) doing such other things or considering such other matters as are consistent with the purposes set out in section 3.

1999, c.27, s.5.

11(1) The Board may establish juries

(a) to provide recommendations to the Board

(i) as to the artistic merit of works, projects and proposals with respect to activities submitted to the Board for evaluation, and

(ii) as to who should receive awards or grants to be given by the Board and the amounts of any such awards or grants, or as to whose work should be acquired and the amounts to be spent on such acquisitions, and

(b) where the Minister has requested that the Board establish a jury, to provide recommendations to the Minister

(i) as to the artistic merit of works, projects and proposals with respect to activities submitted to the Minister for evaluation, and

(ii) as to who should receive awards or grants to be given by the Minister and the amounts of any such awards or grants, or as to whose work should be acquired and the amounts to be spent on such acquisitions.

11(2) A jury established under subsection (1) shall carry out its duties in accordance with the by-laws.

1999, c.27, s.6.

12 The Board may make by-laws not inconsistent with this Act for all or any of the following purposes:

(a) for the establishment from time to time of committees to assist the Board in carrying out its purposes set out in section 3;

(b) for the establishment from time to time of juries, the determination of the number of members to comprise the juries so established, the appointment of members of juries, the duties of juries and the manner in which those duties are to be carried out;

(c) for assuring that the composition of the Board and the carrying out of its purposes are in balance with the interests of all sectors, disciplines and organizations of the Arts;

(d) for the methods by which the Board shall establish criteria to be met by members, by which nominating committees shall select persons for the Board's approval as persons to be proposed to the Minister for appointment as members and by which the Board shall make such proposals to the Minister;

(d.1) for the establishment of a process by which applicants for awards, grants or sales of their work may submit works, projects and proposals to the Board;

(e) for the internal organization, management and day-to-day operation of the Board; and

(f) for the management of the property, effects and business of the Board or relating to any other thing for carrying out the purposes set out in section 3.

1999, c.27, s.7.

13 The fiscal year of the Board ends on the thirty-first day of March of each year.

13.1(1) Subject to subsection (2), on or before the thirtieth of June in each fiscal year, the Board shall submit to the Minister for the Minister's approval a budget for the next fiscal year, which shall include a description of all proposed strategic spending of the Board.

13.1(2) The spending of funds raised by the Board from sources other than the Province is not subject to the Minister's approval.

1999, c.27, s.8.

14(1) The Board shall, within six months after the end of each fiscal year, submit to the Minister an annual report containing

(a) a report of all proceedings under this Act during that fiscal year, including, without limiting the generality of the foregoing, the names of jury members and the recommendations of juries established by the Board

(i) as to the artistic merit of works, projects and proposals with respect to activities submitted to the Board or to the Minister, as the case may be, and

(ii) as to who should receive awards or grants to be given by the Board or the Minister and the amounts of any such awards or grants, and as to whose work should be acquired,

(b) a list of all awards or grants given by the Board during that fiscal year, including the name and residential community of each recipient and the amount of, and grant program and discipline for, each award or grant, and

(c) such recommendations in relation to the Arts as the Board wishes to make.

14(2) The Board shall make copies of the annual report available to the public upon request.

1999, c.27, s.9.

14.1 Within six months after the end of the fiscal year of the Board, it shall submit to the Minister an annual audit, financial statements and the related auditor's report.

1999, c.27, s.10.

15 Each person who is a member of the New Brunswick Interim Arts Board on the commencement of this section shall be deemed to have been appointed as a member of the New Brunswick Arts Board-Conseil des Arts du Nouveau-Brunswick in accordance with this Act, as of the date of the person's appointment to the New Brunswick Interim Arts Board, for the term for which the person was appointed, and this Act applies to those members.

15.1(1) All elections, appointments or designations of persons as co-chairpersons, vice-chairpersons or members of the Board that were effective before the commencement of this subsection are revoked.

15.1(2) All contracts, agreements and orders effective before the commencement of this subsection and relating to allowances, fees, salaries, honoraria, expenses, compensation and remuneration to be paid to any co-chairpersons, vice-chairpersons or members of the Board are null and void.

15.1(3) After the commencement of this subsection, notwithstanding the provisions of any contract, agreement or order, no allowance, fee, salary, honoraria, expenses, compensation or remuneration shall be paid to any co-chairpersons, vice-chairpersons or members of the Board whose election, appointment or designation was effective before the commencement of this subsection, other than honoraria or reimbursement of expenses relating to meetings or other activities of the Board that occurred before the commencement of this subsection.

15.1(4) No action, application or other proceeding lies or shall be instituted against the Minister, any other Minister of the Crown or the Crown in right of the Province as a result of the revocation of elections, appointments or designations under subsection (1).

1999, c.27, s.11.

15.2(1) Notwithstanding anything in this Act, the Lieutenant-Governor in Council shall appoint a Board of twelve members on the commencement of this section, at least six of whom shall have been members of the Board immediately before the commencement of this section.

15.2(2) Notwithstanding anything in this Act, four of the members appointed under subsection (1) shall be appointed for a term of one year, four for a term of two years and four for a term of three years.

15.2(3) Terms and partial terms served on the Board previous to the commencement of this subsection by members appointed to the Board under subsection (1) shall be counted as terms for the purposes of subsection 6(3).

15.2(4) Notwithstanding anything in this Act, the Lieutenant-Governor in Council shall, on the commencement of this section, designate an interim chairperson, an interim first and an interim second vice-chairperson and an interim secretary-treasurer for the Board, who shall act until replaced or reinstated at elections at the next following annual general meeting of the Board, and paragraphs 6(10)(b) and (c) apply to the interim vice-chairpersons with the necessary modifications.

15.2(5) Years and partial years served as co-chairperson of the Board previous to the commencement of this subsection by a chairperson chosen at the annual general meeting referred to in subsection (4) shall not be counted as years for the purposes of subsection 6(11).

15.2(6) After the commencement of this subsection, any matter or thing commenced under this Act by the Board appointed or designated before the commencement of this subsection may be dealt with and completed by the Board appointed or designated when this subsection commences.

1999, c.27, s.11.

16 The acts of a member of the Board, a committee of the Board or a jury established by the Board are valid notwithstanding any defects that may be discovered in the member's qualifications, selection or appointment.

17 Section 3 of the Arts Development Trust Fund, chapter A-13.1 of the Acts of New Brunswick, 1990, is amended by striking out "after consultation with provincial arts organizations" and substituting "after consultation with the New Brunswick Arts Board-Conseil des Arts du Nouveau-Brunswick or a jury established by the Board".

18 This Act or any provision of it comes into force on a day or days to be fixed by proclamation.

N.B. This Act was proclaimed and came into force June 13, 1991.

N.B. This Act is consolidated to December 31, 1999.