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STATUTORY INSTRUMENTS

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**1995 No. 1623 (N.I. 8)**

**NORTHERN IRELAND**

**The Arts Council (Northern Ireland) Order 1995**

*Made - - - - 28th June 1995  
Coming into operation on a day to be appointed under  
Article 1(2)*

At the Court at Buckingham Palace, the 28th day of June 1995

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(1)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Arts Council (Northern Ireland) Order 1995.

(2) This Order shall come into operation on such day as the Head of the Department may by order appoint.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(2)</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Arts Council” means the Arts Council of Northern Ireland established under Article 3;

“the Department” means the Department of Education and “Head of the Department” shall be construed accordingly;

“national lottery functions”, in relation to the Arts Council, means the functions of the Council under, or for the purposes of, the National Lottery etc. Act 1993<sup>(3)</sup>;

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(1) 1974 c. 28  
(2) 1954 c. 33 (N.I.)  
(3) 1993 c. 39

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

### **The Arts Council of Northern Ireland**

3.—(1) There shall be established a body to be known as the Arts Council of Northern Ireland.

(2) The Schedule shall have effect in relation to the Arts Council.

(3) All assets and liabilities to which the former Council is entitled or subject immediately before the coming into operation of this Order shall be transferred to, and by virtue of this Article vest in, the Arts Council.

(4) Stamp duty shall not be chargeable in respect of the transfer effected by this Article.

(5) In this Article “the former Council” means the company limited by guarantee and registered under the Companies (Northern Ireland) Order 1986(4) under the name of the Arts Council of Northern Ireland 1994.

### **Functions of the Arts Council**

4.—(1) The functions of the Arts Council shall be—

- (a) to develop and improve the knowledge, appreciation and practice of the arts;
- (b) to increase public access to, and participation in, the arts;
- (c) to advise the Department and other government departments, district councils and other bodies on matters relating to the arts; and
- (d) such other functions as are conferred on the Council by any other statutory provision.

(2) Without prejudice to the generality of paragraph (1), the Arts Council may, for the purposes of those functions—

- (a) encourage and assist—
  - (i) the provision of arts facilities and events; and
  - (ii) the co-ordination and efficient use of resources for the arts;
- (b) provide financial assistance to persons or bodies;
- (c) receive donations and make charges for its services;
- (d) organise or assist in the organisation of, conferences, seminars and courses of training;
- (e) assist the provision of administrative services and training for or by any body providing facilities for, or in connection with, the arts;
- (f) provide and manage arts facilities;
- (g) print, publish and disseminate information relating to the arts;
- (h) visit other parts of the United Kingdom and other countries;
- (i) co-operate with other bodies established within the United Kingdom or outside the United Kingdom;
- (j) carry out, or assist or co-operate with other persons in carrying out, research into and studies concerning matters relating to the arts.

(3) It shall be the duty of the Arts Council to consult regularly with district councils on the exercise by the Council of its functions.

(4) In addition, the Arts Council shall make provision for regular consultation with members of district councils on the development of the arts.

(5) The reference in paragraph (3) to the functions of the Arts Council does not include a reference to national lottery functions.

### **Financial assistance by the Arts Council**

5.—(1) Financial assistance provided by the Arts Council shall be in the form of a loan or a grant.

(2) The Arts Council, when making a loan, shall attach to the loan such conditions (if any) as may be specified in arrangements in writing approved by the Department.

(3) The Arts Council, when making a grant, shall attach to the grant—

(a) conditions—

(i) for securing the continuity of the undertaking assisted;

(ii) for repayment, in circumstances specified by the Council, of the whole or part of the grant; and

(iii) for payment, where paragraph (4) applies (and in addition to any amount repayable under head (ii)), of such sum as the Council may require under paragraph (5); and

(b) such other conditions (if any) as may be specified in arrangements in writing approved by the Department.

(4) This paragraph applies where the Arts Council has made a grant in respect of the acquisition, provision or alteration of any land or building and that land or building—

(a) is disposed of;

(b) ceases, in the opinion of the Council, to be used in accordance with the conditions attaching to the grant; or

(c) ceases, in the opinion of the Council, to be required for the purposes for which the grant was paid,

within such period as the Council shall specify in the grant conditions.

(5) Where paragraph (4) applies, there shall be payable to the Arts Council by the recipient a sum which the Council considers equitable, but which does not exceed the sum determined by the calculation—

$$(V - C) \times \frac{G}{C}$$

where—

V is the current value of the land or building determined in accordance with paragraph (6);

G is the amount of the grant; and

C is the cost of acquisition, provision or alteration of the land or building approved by the Council before making the grant.

(6) For the purposes of paragraph (5) the current value of any land or building shall be taken to be the amount which the land or building might be expected to realise if sold in the open market on the date when the land or building is disposed of or ceases to be used or required as described in paragraph (4)(b) or (c), and where the Arts Council certifies that it is not possible to reach agreement as to such value, the dispute as to such value may be referred to and determined by the Lands Tribunal.

(7) The recipient shall pay interest upon the amount of grant repayable and the sum payable under paragraph (5), at such rate as is determined by an order made by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland)

1972(5), from the relevant date until the date of payment of the money and interest to the Arts Council.

(8) Any sum which falls to be paid or repaid to the Arts Council under this Article may be recovered by the Council as a debt due to it.

(9) The Arts Council shall account to the Department for—

- (a) any sum paid to it under paragraph (5); and
- (b) any interest on that sum paid to it under paragraph (7).

(10) In paragraph (7) “the relevant date” means—

- (a) in any case where the land or building is disposed of before the Arts Council serves notice on the recipient of its determination under sub-paragraph (b), the date of the disposal;
- (b) in any other case, such date as the Council may determine.

(11) In this Article “recipient”, in relation to a grant, means the person to whom, or body to which, the grant was paid.

### **Grants to the Arts Council**

6.—(1) The Department may make grants to the Arts Council.

(2) The Department may attach—

- (a) such conditions as it thinks appropriate for securing the proper management and control of money received by the Arts Council under paragraph (1);
- (b) such other conditions as the Department thinks necessary in the public interest,

to grants made to the Arts Council under paragraph (1).

(3) The Department shall not exercise its powers under paragraph (2)(b) with the intention of interfering with the exercise of the Arts Council’s artistic judgment in deciding whether to provide financial assistance to any person or body in any particular case.

(4) The Arts Council shall provide the Department with such information relating to the allocation or expenditure of money received by it under paragraph (1) as the Department may require.

### **Borrowing powers of the Arts Council**

7. The Arts Council may, by means of a bank overdraft or by such other means, within such limits and subject to such conditions as may be approved by the Department, borrow money for the purpose of defraying expenditure incurred by it.

### **Accounts of the Arts Council**

8.—(1) The Arts Council shall keep, in such form as the Department may direct, accounts of all moneys received and all moneys paid out by it.

(2) In respect of each financial year—

- (a) the Arts Council shall prepare and submit to the Comptroller and Auditor General for Northern Ireland a statement of accounts before such date, in such form and containing such information as the Department, with the approval of the Department of Finance and Personnel, may direct and shall before that date send a copy thereof to the Department;
- (b) the Comptroller and Auditor General for Northern Ireland shall examine and certify the statement of accounts submitted to him by the Arts Council; and

(c) the Department shall lay before the Assembly a copy of the certified statement of accounts of the Arts Council together with a copy of any report thereon of the Comptroller and Auditor General for Northern Ireland.

(3) The Comptroller and Auditor General for Northern Ireland in the discharge of his functions under this Article shall have right of access to the books, accounts and records of the Arts Council and may require from any member or officer or former member or officer of the Arts Council such information relating to the affairs of the Council as he may think necessary for the proper performance of those functions.

(4) For the purposes of this Order, the financial year of the Arts Council shall be the period of 12 months ending at midnight on 31st March; but the first financial year of the Arts Council shall be the period beginning with the date of establishment of the Arts Council and ending at midnight on 31st March next following that date.

(5) Nothing in this Article applies in relation to—

- (a) any moneys received or paid out by the Arts Council in the exercise of national lottery functions; or
- (b) any books, accounts or records kept solely for the purposes of such functions.

#### **Annual report on exercise of functions by the Arts Council**

9. The Arts Council shall prepare and transmit to the Department an annual report on the exercise by the Council of its functions (other than national lottery functions) and the Department shall lay a copy of that report before the Assembly.

*N. H. Nicholls*  
Clerk of the Privy Council

SCHEDULE

Article 3(2).

THE ARTS COUNCIL OF NORTHERN IRELAND

*Incorporation and status*

1.—(1) The Arts Council shall be a body corporate to which, subject to the provisions of this Order, section 19 of the Interpretation Act (Northern Ireland) 1954(6) shall apply.

(2) The Arts Council shall not acquire, hold or dispose of land without the consent of the Department.

2. The Arts Council shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property shall not be regarded as the property of, or property held on behalf of, the Crown.

*Membership*

3.—(1) The Arts Council shall consist of such persons as the Head of the Department shall appoint after consultation with such persons as appear to him to represent—

- (a) district councils;
- (b) persons engaged in providing education;
- (c) persons engaged in, or in the promotion of, the arts.

(2) In the period of 12 months from the making of this Order, sub-paragraph (1) shall have effect with the omission of the words from “after consultation with” to the end.

(3) The Head of the Department shall appoint—

- (a) one of the members of the Arts Council to be chairman who, in the case of an equality of votes, shall have a second or casting vote; and
- (b) another member to be vice-chairman who in the absence of the chairman shall, in the case of an equality of votes, have a second or casting vote.

(4) The Department may appoint assessors to the Arts Council who shall be entitled to receive notice of, and to attend and speak at, meetings of the Council and committees thereof, but shall not be entitled to vote at any such meetings.

4.—(1) Subject to the following provisions of this paragraph, a member of the Arts Council shall hold and vacate his office in accordance with the terms of his appointment.

(2) A member shall be deemed to have vacated his office and the Arts Council shall declare his place vacant in the following circumstances—

- (a) where he gives to the Head of the Department a notice in writing of his resignation;
- (b) where he becomes bankrupt or makes a composition with his creditors;
- (c) where in the opinion of the Head of the Department he becomes incapacitated to hold office and the Head of the Department so informs the Arts Council in writing;
- (d) where he is convicted of an indictable offence and is sentenced to a term of imprisonment of not less than three months; or
- (e) where he fails, without leave of the Arts Council, to attend any meetings of the Council, or of a committee thereof of which he is a member, for a period of 6 consecutive months.

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(6) 1954 c. 33 (N.I.)

(3) The Arts Council may pay to its chairman and vice-chairman such salary as the Department, with the approval of the Department of Finance and Personnel, may determine.

(4) The Arts Council may pay travelling and subsistence allowances and other expenses necessarily incurred by members of the Council and committees and sub-committees thereof in the performance of their functions and such allowances and expenses shall be paid at such rates as the Department may determine.

### *Staff*

5.—(1) The right of the Arts Council under section 19(1)(a)(vi) of the Interpretation Act (Northern Ireland) 1954(7) to employ staff shall be exercised subject to any direction which may be given by the Department with respect to the number and terms and conditions of service of persons employed or to be employed by the Council.

(2) The remuneration of persons employed by the Arts Council shall be at such rate as the Council may, with the consent of the Department, determine.

(3) The Arts Council may, in accordance with arrangements determined by the Department, make provision for the payment on death or retirement of pensions, gratuities or other like benefits to or in respect of the service of officers of the Council.

6.—(1) The Arts Council shall appoint a fit person to be its chief executive officer.

(2) Before making an appointment under sub-paragraph (1), the Arts Council shall supply to the Department particulars of the names, previous experience and qualifications of the persons from whom it proposes to make a selection.

(3) If the Department considers that any person whose name is submitted under sub-paragraph (2) is not a fit person to be the chief executive officer of the Arts Council, the Department may give directions prohibiting his appointment.

### *Committees*

7.—(1) The Arts Council may appoint committees to assist it in the discharge of its functions or to perform such functions as it may delegate to such committees.

(2) The Arts Council may appoint as members of any committee established under sub-paragraph (1) or authorise any such committee to co-opt as members of the committee persons who are not members of the Arts Council.

(3) The Arts Council may authorise a committee to appoint sub-committees for such advisory purposes as the Council may approve.

(4) A committee may appoint as members of any sub-committee established under sub-paragraph (3) or authorise any such sub-committee to co-opt as members of the sub-committee persons who are not members of the Arts Council or of the committee who appointed the sub-committee.

(5) References in this paragraph to the functions of the Arts Council do not include references to national lottery functions.

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(7) 1954 c. 33 (N.I.)

*Status: This is the original version (as it was originally made).*

### *Procedure*

**8.** The proceedings of the Arts Council or of any committee or sub-committee thereof shall not be invalidated by any vacancy among its members or by any defect in the appointment of any of its members.

**9.—(1)** Without prejudice to section 19(1)(a)(v) of the Interpretation Act (Northern Ireland) 1954<sup>(8)</sup>, the Arts Council shall make standing orders for the Council and its committees and sub-committees relating to—

- (a) the convening of meetings;
- (b) the fixing of the quorum;
- (c) the conduct of business at meetings;
- (d) the disclosure by a member of any pecuniary interest in, or family relationship relevant to, any matter to be discussed at a meeting and the withdrawal by such a member from any discussion on that matter;
- (e) the keeping of minutes, accounts and other records;
- (f) the signing of cheques;
- (g) the custody of deeds and other documents;
- (h) the duties of officers;
- (i) such other matters connected with the conduct of its business as the Arts Council thinks fit.

(2) The common seal of the Arts Council shall, when applied to a document, be attested by the signatures of any two members of the Council authorised by the Council to act for that purpose.

### *Assembly disqualification*

**10.** In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975<sup>(9)</sup> (other disqualifying offices) there shall be inserted (at the appropriate place) the following entry—

“Chairman or vice-chairman of the Arts Council of Northern Ireland.”

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order provides for the constitution and functions of the Arts Council of Northern Ireland.

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<sup>(8)</sup> 1954 c. 33 (N.I.)

<sup>(9)</sup> 1975 c. 25