

Hon Carmel Sepuloni

Minister for Arts, Culture and Heritage

Resale Right for Visual Artists Bill

Regulations Discussion Document Cabinet Paper

17 May 2023

Date: 11 April 2023

Title: Resale Right for Visual Artists Bill Regulations Discussion Document Cabinet Paper

Author: Ministry for Culture and Heritage

These documents have been proactively released by the Minister for Arts, Culture and Heritage. This package includes the Cabinet paper and other key decision papers, as listed below.

- Title:
1. Discussion Document: Resale Right for Visual Artists Regulations Cabinet Paper and associated appendices
 2. Cabinet Social Wellbeing Committee Minute of Decision (SWC-23-MIN-0026)
 3. Cabinet Minute of Decision (CAB-23-MIN-0122)

The Discussion Document and its associated Regulatory Impact Statement are available on Manatū Taonga's website at: <http://www.mch.govt.nz/sites/default/files/ARRS-consultation-doc-20230412-4.pdf> and www.mch.govt.nz/sites/default/files/projects/Interim-RIS-artist-resale-royalty-supporting-regulations.pdf, respectively.

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Section 9(2)(f)(iv) To maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

In Confidence

Office of the Minister for Arts, Culture and Heritage

Cabinet Social Wellbeing Committee

Discussion document: Resale Right for Visual Artists Regulations

Proposal

- 1 This paper seeks Cabinet approval to release the discussion document *Resale Right for Visual Artists Regulations*, attached as Appendix 1. Feedback from the discussion document will inform the final policy settings for the regulations that will support the Resale Right for Visual Artists Bill.

Relation to government priorities

- 2 By enabling visual artists to benefit financially from the resale of their artwork, an Artist Resale Royalty (ARR) scheme aligns with the Government's priority to support New Zealanders through the current difficult economic conditions. An ARR scheme will provide a royalty payment to eligible visual artists when their art is resold. Manatū Taonga the Ministry for Culture and Heritage (Manatū Taonga) estimates that up to 3,600 artists could benefit.
- 3 Introducing a New Zealand ARR scheme will help New Zealand meet its commitments under our Free Trade Agreements with the United Kingdom and the European Union.

Executive Summary

- 4 In August 2022, Cabinet agreed to introduce an Artist Resale Royalty (ARR) scheme in New Zealand through new standalone legislation. [CAB-22-MIN-0316 refers].
- 5 The Resale Right for Visual Artists Bill (the Bill) was introduced to Parliament on 28 March 2023 and has been referred to the Social Services and Community Committee. The Bill proposes a new Act to establish an ARR scheme in New Zealand.
- 6 While the Bill will establish the key elements of the ARR scheme, Cabinet also agreed that regulations be developed to support the scheme.
- 7 I am now seeking Cabinet agreement to consult publicly on the draft proposals for the regulations, which are outlined in the attached *Resale Right for Visual Artists Regulations* discussion document (the discussion document).
- 8 I intend to release this discussion document for public consultation in April–May 2023 while the Bill is before Select Committee. This will enable stakeholders to consider both the Bill and supporting regulations alongside each other.

Background

- 9 The New Zealand–United Kingdom Free Trade Agreement (NZ–UK FTA) commits New Zealand to introducing a reciprocal Artist Resale Royalty (ARR) scheme within two years of the FTA entering into force. The NZ–UK FTA is expected to enter into force in the first half of 2023, meaning an ARR scheme will likely need to be operational by mid-2025.
- 10 The FTA with the European Union (NZ–EU FTA), which Cabinet is yet to agree be signed and ratified, contains a similar commitment to establish an ARR scheme within two years of entry into force. Signing of the NZ–EU FTA is expected in mid-2023 with possible entry into force in 2024.
- 11 In August 2022, Cabinet agreed to introduce an ARR scheme in New Zealand through new standalone legislation. [CAB-22-MIN-0316 refers].

The Resale Right for Visual Artists Bill

- 12 The Resale Right for Visual Artists Bill (the Bill) was introduced to Parliament on 28 March 2023 and has been referred to the Social Services and Community Committee. The Bill proposes a new Act to establish an ARR scheme in New Zealand. The scheme will:
 - 12.1 entitle eligible¹ visual artists (or their estates) to receive a resale royalty payment when their qualifying artwork sells on the secondary art market
 - 12.2 apply to resales of visual artwork that occur after the first transfer/sale of the artwork and which involve an art market professional or are to or from a publicly funded museum or art gallery.
- 13 The resale right will be inalienable, which means it cannot be waived or transferred to anyone else, except upon the right holder's death. The duration of the right is the artists lifetime plus 50 years.²
- 14 The resale royalty will be an additional five percent on the resale price (before any additional costs such as GST and buyer's premium³). The seller and the art market professional will be jointly and severally liable for payment of the resale royalty.
- 15 A resale royalty will always be collected on an eligible resale, but artists may decline to receive a royalty payment. Private sales between two individuals will not attract a mandatory resale royalty, however, private sales will be able to opt into the scheme and voluntarily pay a royalty if desired.

¹ A person is an eligible artist for the purposes of the scheme if they are a New Zealand citizen, an individual domiciled or resident in New Zealand, or a citizen or resident of countries with which New Zealand has a reciprocal agreement in place.

² If the duration of copyright extends in the future (as has been committed to under both the NZ–UK and NZ–EU FTAs), then the duration of the resale right will likewise be extended.

³ A charge in addition to a hammer price.

- 16 A non-government, not-for-profit collection agency will be authorised to manage and enforce the scheme and, in return, will be entitled to deduct an administrative fee from royalties collected. The performance of the collection agency will be monitored by Manatū Taonga.

The Resale Right for Visual Artists Regulations

- 17 While the Bill will establish the key elements of the ARR scheme, Cabinet also agreed that supporting regulations be developed which:
- 17.1 set out the role and functions of the collection agency
 - 17.2 set the threshold above which the royalty applies
 - 17.3 provide for the process by which the administrative fee deducted from each royalty payment is set
 - 17.4 provide for a cultural fund where donated or declined royalties can be redirected to support career sustainability for artists.
- 18 Alongside the drafting of the Bill, Manatū Taonga has been progressing policy work to design regulatory proposals that would support the Bill.
- 19 The regulatory proposals presented in the attached discussion document have been informed by research and modelling of the New Zealand art market, analysis of existing artist resale royalty overseas schemes, analysis of similar royalty distribution schemes in New Zealand and engagement with two expert advisory groups.

Manatū Taonga established two expert advisory groups to inform work on the Resale Right for Visual Artists Regulations

- 20 Manatū Taonga established two expert advisory groups between October and December 2022 to inform the development of the regulatory proposals in the attached discussion document. The two groups (a General Advisory Group and a Toi Māori Advisory Group) included the expertise and perspectives of artists (including Māori and Pacific artists), art market professionals, art law experts, the museums and galleries sector, and the royalty collection sector.
- 21 In general, both advisory groups are supportive of the ARR scheme and their recommendations have shaped the proposals in the discussion document. However, not all the advisory groups' recommendations have been included in the proposals. Appendices 2 and 3 set out how the groups' recommendations have and have not been incorporated into the regulatory proposals.

Proposals for the Resale Right for Visual Artists Regulations

- 22 The Resale Right for Visual Artists Regulations discussion document is seeking feedback on the following proposals:
- 22.1 a minimum sale price threshold of \$1000

- 22.2 the process for setting the administrative fee that will fund the operation of the scheme, and what the Minister must consider when setting the fee⁴
- 22.3 the process for appointing the collection agency
- 22.4 the processes the collection agency will follow when collecting, holding and distributing resale royalties to rights holder
- 22.5 the collection agency's reporting requirements
- 22.6 monitoring requirements
- 22.7 privacy requirements with which the collection agency must comply
- 22.8 how the collection agency would manage complaints and disputes between participants in the scheme
- 22.9 how the collection agency would engage with participants in the scheme
- 22.10 how the cultural fund would be established.

Public consultation on the Resale Right for Visual Artists Regulations

- 23 I am seeking Cabinet agreement to consult publicly on the draft proposals for the regulations, included in the attached discussion document.
- 24 I intend to release this discussion document for public consultation for six weeks in April–May 2023, while the Bill is before Select Committee. This will enable stakeholders to consider both the Bill and supporting regulations alongside each other and will provide a more fulsome picture of the ARR scheme.
- 25 Stakeholders will be able to provide feedback on the discussion document through email or mail. If stakeholders would like to provide feedback through another mechanism, Manatū Taonga has signalled in the document that it is open to discussing alternative means of providing feedback.
- 26 Submissions and any other data gathered through the consultation process will be used to inform final policy advice on the supporting regulations.

⁴ The setting of the administrative fee will be consistent with the Treasury's guidelines for setting charges in the public sector and the Office of the Auditor-General's good practice guide for setting and administering fees.

27 The proposed process and timing for the regulations is outlined below:

Milestone/Activity	Timeframe
Cabinet agreement to release regulations discussion document for public consultation	Early April 2023
Public consultation on discussion document containing policy proposals for regulations (concurrent with select committee consideration of the Bill)	April – May 2023
Manatū Taonga considers submissions and drafts final policy proposals for regulations	May – June 2023
9(2)(f)(iv)	

Risks

28 There is a risk that some stakeholders, including those who were members of the General Advisory Group and the Toi Māori Advisory Group, may not be supportive of some of the regulatory proposals outlined in the discussion document. During Manatū Taonga’s engagement with the advisory groups, concerns were raised about some aspects of the proposals (these concerns are detailed in Appendices 2 and 3).

29 In the case of the two advisory groups, officials have clearly communicated where their feedback has been taken on board and where it has not and the reasons for this. The consultation document also includes some of this rationale. The decision to undertake wider public consultation on the regulations also helps mitigate this risk as the advisory groups and other stakeholders are being given the opportunity both through this public consultation process and through the Select Committee process (for the Resale Right for Visual Artists Bill) to provide further feedback, which will inform the final decisions on both the Bill and the regulations.

Financial implications

30 There are no financial implications expected from releasing the discussion document. However, there are financial implications associated with the implementation of the scheme.

31 9(2)(f)(iv)

While the intention is that the ARR scheme will be self-sustaining in the long-term through the administrative fee deducted from

each royalty collected, there will be initial implementation and operating costs which the Crown will need to fund.

- 32 9(2)(f)(iv) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Legislative implications

- 33 Following consultation, I will seek Cabinet approval of the final policy proposals for the regulations and approval to issue drafting instructions to the Parliamentary Counsel Office.

Impact analysis

Regulatory Impact Statement

- 34 Regulatory impact analysis requirements apply to the proposals in this paper and an interim Regulatory Impact Statement (RIS) is attached. A quality assurance panel at Manatū Taonga has reviewed the interim RIS and considers it partially meets the quality assurance criteria.
- 35 The panel considers that the interim RIS presents relatively sound analysis and conclusions in respect of the discrete sets of regulatory options it considers. The panel considers further work is required to check the range of assumptions underpinning the analysis, and to more robustly assess the impacts and workability of the full suite of preferred options.
- 36 The panel considers the consultation proposed to be undertaken on the preferred options will provide an opportunity to gather a wider range of information and insights, including the views of those communities that may be most affected by the proposed settings, to inform this work. Overall, the panel considers the RIS provides enough information to inform decisions to consult on proposals for regulations.

Climate implications

- 37 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Human rights

- 38 The options contained in the discussion paper do not appear at this stage to be inconsistent with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. A final view as to whether the proposals will be consistent with the Bill of Rights Act will be possible once the regulations have been drafted.

Te Tiriti o Waitangi implications

- 39 Māori artists are underrepresented in the secondary art market. One reason for this is because many Māori artists do not have auctions houses, dealer galleries or public galleries promoting their work. The Resale Right for Visual Artists Bill includes mechanisms to offset this imbalance and ensure Māori artists benefit from the scheme, including broad and inclusive definitions of visual art and art market professional, enabling royalty rights to be held jointly by artists (which recognises the way Māori art is often created), and enabling private sales (how many works by Māori artists are sold) to opt into the scheme. The Bill also requires the collection agency, which manages the scheme, to acknowledge and respect the role of Māori as tangata whenua and provide culturally appropriate support to Māori artists in its operation of the scheme.
- 40 The proposals for the Resale Right for Visual Artists Regulations have also been designed to ensure Māori are appropriately supported and rewarded by the scheme. Under the proposals, when tendering for the contract to operate the scheme, prospective collection agencies will need to demonstrate how they will include Māori in decision-making at the governance and management levels of the agency. Once appointed, the collection agency will also be required to consult Māori rights holders before making significant decisions and inform Māori rights holders of any key decisions or changes relating to the scheme's operation.
- 41 In addition, the discussion document proposes the regulations require the collection agency to report on the specific impacts of the scheme on Māori artists, including how many Māori artists receive a royalty, the value of these royalties, what proportion of the cultural fund comes from Māori artists and is used to support Māori artists, and what enforcement action is taken on behalf of Māori artists. Through this reporting, Manatū Taonga, as the monitoring agency, would be able to assess how Māori are benefiting relative to others and make changes to the scheme if necessary.
- 42 During engagement with the Toi Māori Advisory Group on proposals for the regulations, Te Tiriti issues were raised, including the need to protect indigenous intellectual property and traditional knowledge, and the safeguarding and protection of rangatiratanga, including Māori chieftainship, sovereignty, ownership, and control over Māori cultural heritage and taonga. These issues are outside the scope of this scheme but are currently being considered as part of Te Pae Tawhiti, the all-of-government response to WAI 262.

Population implications

- 43 There are no specific population implications arising from the proposal to release this discussion document for public consultation. However, as outlined in my advice to Cabinet in August 2022, there are specific population implications associated with the ARR scheme.

Consultation

- 44 The following agencies have been consulted and their views reflected: the Ministries of Business, Innovation and Employment (MBIE), Foreign Affairs and Trade, and Justice, the Ministries for Women, Pacific Peoples and Ethnic Communities, Inland Revenue Department, Te Puni Kōkiri, the Office for Māori Crown Relations – Te Arawhiti, The Treasury, the Department of the Prime Minister and Cabinet, and the Office of the Privacy Commissioner.
- 45 The proposals in the discussion document were developed in consultation with two sector advisory groups.

Communications

- 46 I intend to announce the release of the discussion document and the start of the consultation process, encouraging stakeholders to contribute feedback, once its publication is approved by Cabinet. Public consultation will take place between April and May 2023.

Proactive release

- 47 I propose to release this Cabinet paper and relevant Minute proactively, subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

The Minister for Arts, Culture and Heritage recommends that the Committee:

- 1 **Note** that Cabinet agreed in August 2022 to introduce an Artist Resale Royalty scheme in New Zealand through new standalone legislation; [CAB-22-MIN-0316 refers];
- 2 **Note** that the Resale Right for Visual Artists Bill was introduced to the House on 28 March 2023 and has been referred to the Social Services and Community Committee;
- 3 **Note** that Cabinet agreed that supporting regulations be developed which:
 - 3.1 prescribe how the administrative fee, to be deducted from each royalty, will be set
 - 3.2 set the dollar threshold at which a royalty will be payable on eligible resales
 - 3.3 prescribe detail on the operation of the collection agency including the collection and distribution of the royalty and reporting and monitoring requirements
 - 3.4 provide for a cultural fund to support visual artists' career sustainability. [CAB-22-MIN-0316 refers].

- 4 **Agree** to publicly release the attached discussion document *Resale Right for Visual Artists Regulations* which seeks feedback on proposals for the regulations;
- 5 **Authorise** the Minister for Arts, Culture and Heritage to make minor technical and editorial changes to the discussion document before release;
- 6 **Note** that consultation on the Resale Right for Visual Artists Regulations will take place between April and May 2023;
- 7 9(2)(f)(iv) [REDACTED]

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Arts, Culture and Heritage

PROACTIVELY RELEASED

Appendix 2: How the General Advisory Group’s recommendations have been incorporated¹

Group’s recommendations included in the proposals	Group’s recommendations not included in the proposals and why
<p>Definition of visual art</p> <ul style="list-style-type: none"> The definition of visual art should be in legislation not regulations. The definition has been included in the Bill and will not be in regulations. <p>Definition of art market professional</p> <ul style="list-style-type: none"> The definition should be broad and include auctioneers, art dealers, art consultants, or anyone else receiving remuneration/commission as part of the resale of an artwork. The definition has been included in the Bill rather than regulations and is broadly reflective of the above recommendation. <p>Administrative fee</p> <ul style="list-style-type: none"> There should be a single administrative fee for artists and estates that reflects the actual costs of administration and is reviewed periodically. Regulations should set out what the Minister will need to consider when determining the administrative fee. The administrative fee should be deducted from the royalty, not added on. The administrative fee should be the same for royalties received on domestic and international resales. 	<p>Definition of visual artist</p> <ul style="list-style-type: none"> Regulations should include a definition of visual artists. Officials do not consider this is necessary as it is not the role of these regulations to determine who is an artist and who is not, but to ensure any eligible resales of artwork provide artists with a resale royalty. <p>Definition of art market professional</p> <ul style="list-style-type: none"> The majority of the group agreed that public institutions should be designated as art market professionals. Designating public institutions as art market professionals creates two issues. As public institutions often purchase art through auction houses it would mean there are multiple art market professionals involved in a single transaction creating confusion around liability for the provision of information and payment. It would also be a step towards eroding the independence of public institutions from the art market and the commercialisation of art. Public institutions (and the curators that work within those institutions) value artworks in ways very separate from the commercial art market. Decision-making is done on the basis of social value (attempting to reflect the current mores of society and the societal changes that are on the horizon), aesthetics and public good, rather than for profit. <p>Roles and functions of collection agency</p> <ul style="list-style-type: none"> Add a principle that the collection agency should ensure Pacific artists are appropriately supported. This cannot be added as a principle as the principles have been agreed by Cabinet for inclusion in legislation. However, operational contracts for services will give effect to this requirement. Art market professionals should have 90 calendar days to provide the collection agency with information on a sale once that sale is finalised. Experience from the

¹ Note this feedback summary includes feedback on the definition of visual art and art market professional, which were originally proposed for inclusion in the regulations but were ultimately included in the Bill.

Role and functions of the collection agency

- Pacific artists should be appropriately supported and the collection agency should have a clear understanding of how the scheme is impacting Pacific artists.
- Co-governance and co-management should not be a feature of the scheme. The group did not support the Māori Advisory Group's recommendation for co-chairs and two streams of leadership. Instead, it recommended having requirements around Māori involvement in governance and making use of governance subcommittees to support strategic oversight of the scheme.
- There should be a dispute resolution process.
- The regulations need to include transition requirements in the event there is a change in the collection agency.
- The collection agency should be appointed for a fixed term rather than indefinitely.
- The regulations should outline what the Minister will need to consider prior to amending the administrative fee.
- There should be strong reporting and monitoring requirements around the impact of the scheme on Māori and Pacific artists.

Australian scheme indicates this is too long and incentivises delayed reporting. The discussion document proposes 60 days.

- **The collection agency should have the power to compel the provision of information in relation to the scheme.** It is not appropriate to give a private entity this power over another private entity. Therefore, the legislation will not compel the provision of information.
- **There should be a time limit on when an unclaimed royalty can be subsequently claimed by the rights holder.** Having a time limit impinges on the right and is not consistent with tikanga.

Threshold

- **Have a cap on the maximum royalty.** This option was discounted because Ministers have already agreed not to have a cap, recognising that high-value sales will be key to making the scheme self-sustaining. There is no evidence from the Australian scheme that not having a cap depresses the market.
- **Art market professional representatives recommended a high threshold (at least \$2,000)** to make the scheme easier to administer, and to ensure there is less uncertainty around what is art, and to focus the scheme on professional artists. A higher threshold would restrict the scheme to only benefitting a small number of well-established artists. For example, only 28 percent of sales would be over the \$2,000 threshold (based on auction house sales data), which is not consistent with the objective of scheme.
- **The majority of the group agreed the threshold should be as low as possible, ideally \$500.** No other schemes that have been reviewed have thresholds this low. This could impact compliance due to the sheer number of works that would be eligible, making it harder for the collection agency/art market professional to identify eligible works, particularly with a proposed broad definition of visual art and art market professional. The discussion document proposes the regulations set the threshold at \$1,000.

Appendix 3: How the Toi Māori Advisory Group's recommendations have been incorporated¹

Group's recommendations included in the proposals	Group's recommendations not included in the proposals and why
<p>Definition of visual art</p> <ul style="list-style-type: none"> • There should be a clear definition of original artwork so it is not conflated with copyright and therefore does not exclude Māori artists who draw upon original ideas. • The group supported a broad definition of Toi Māori. This has been reflected in the definition of visual artwork in the Bill. <p>Definition of art market professional</p> <ul style="list-style-type: none"> • The definition should be clear that it includes art advisors, consultants and brokers (agents acting on behalf of the buyer or seller). This has been reflected in the definition of art market professional in the Bill. <p>Threshold</p> <ul style="list-style-type: none"> • The threshold should be set at \$1,000. • The scheme should not have two different thresholds for artists and artists' estates. <p>Role and functions of the collection agency</p> <ul style="list-style-type: none"> • Require, as a condition of contract for services, that there is appropriate knowledge and capability in place to ensure the scheme is effective for Māori artists. 	<p>Definition of art market professional</p> <ul style="list-style-type: none"> • Public institutions should be designated as art market professionals. Designating public institutions as art market professionals creates two issues. As public institutions often purchase art through auction houses it would mean there are multiple art market professionals involved in a single transaction creating confusion around liability for the provision of information and payment. It would also be a step towards eroding the independence of public institutions from the art market and the commercialisation of art. Public institutions (and the curators that work within those institutions) value artworks in ways very separate from the commercial art market. Decision-making is based on social value (attempting to reflect the current mores of society and the societal changes that are on the horizon), aesthetics and public good, rather than for profit. <p>Administrative fee</p> <p>The group considered the administrative fee should not be deducted from the 5 percent royalty. Two options were proposed:</p> <ul style="list-style-type: none"> • Government should fund the scheme in perpetuity so that an administrative fee is not necessary. A key objective of the scheme is for it to be self-sustaining, so ongoing Government funding is not a viable option. • Add the administrative fee on top of the five percent royalty as an additional one percent on the sale price. Adding the administrative fee on top of the royalty would change the nature of the fee from a fee deducted for services to being an additional

¹ Note this feedback summary includes feedback on the definition of visual art and art market professional, which were originally proposed for inclusion in the regulations but were ultimately included in the Bill.

- The collection agency should be appointed for a fixed term, not indefinitely.
- There should be specific reporting requirements related to how the scheme is impacting Māori artists, including how they are benefiting and how the cultural fund is supporting them.
- Monitoring should ensure the collection agency is giving effect to principles set out in the Act, specifically that Māori are participating equitably in the scheme and that they are consulted on changes to the scheme.
- There should be no time limit on when an unclaimed royalty can be subsequently claimed by the rights holder.

levy, charge or tax on the secondary art market. Officials are concerned that creating a new levy, charge or tax in this way could deter compliance with the scheme and runs counter to the government's announcement that the total royalty rate is five percent. By deducting the administrative fee from the royalty, the artist is not giving up a part of their right, rather they are giving up a part of the payment attached to the right in exchange for that payment being collected on their behalf and distributed to them. It is not reasonable for the secondary art market (i.e. buyer, sellers and art market professionals) to bear the administrative costs on a benefit the artist is receiving at their expense.

Role and functions of the collection agency

- **The collection agency should be a Māori-led organisation.** This can't be guaranteed, as it is an open tender process, but Manatū Taonga could encourage Māori-led organisations to also apply.
- **The collection agency should manage the collection of the resale royalty and cultural fund through a bi-cultural model with co-governance and co-management at its core, including co-chairs, two streams of leadership and two streams within the cultural fund.** This would add significant additional complexity and cost to the ARR scheme and could undermine the sustainability of the scheme. However, officials consider a commitment to ensuring Māori are involved at a governance level is important. Under the proposals in the consultation document, when tendering for the contract to operate the scheme, prospective collection agencies will need to demonstrate how they will provide culturally appropriate support, including how they will include Māori in decision-making at the governance and management levels of the agency.

PROACTIVELY REVIEWED



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Resale Right for Visual Artists Regulations Discussion Document: Approval to Consult

Portfolio Arts, Culture and Heritage

On 5 April 2023, the Cabinet Social Wellbeing Committee:

- 1 **noted** that in August 2022, SWC agreed to introduce an Artist Resale Royalty scheme in New Zealand through new standalone legislation and that supporting regulations be developed which:
 - 1.1 prescribe how the administrative fee, to be deducted from each royalty, will be set;
 - 1.2 set the dollar threshold at which a royalty will be payable on eligible resales;
 - 1.3 prescribe detail on the operation of the collection agency including the collection and distribution of the royalty and reporting and monitoring requirements;
 - 1.4 provide for a cultural fund to support visual artists' career sustainability;[SWC-22-MIN-0144];
- 2 **noted** that the Resale Right for Visual Artists Bill was introduced to the House on 28 March 2023 and has been referred to the Social Services and Community Committee;
- 3 **agreed** to the release of the discussion document *Resale Right for Visual Artists Regulations*, attached under SWC-23-SUB-0026, which seeks public feedback on proposals for the regulations;
- 4 **authorised** the Minister for Arts, Culture and Heritage to make minor technical and editorial changes to the discussion document before release;
- 5 **noted** that consultation on the Resale Right for Visual Artists Regulations will take place between April and May 2023;
- 6 9(2)(f)(iv) [REDACTED]

Rachel Clarke
Committee Secretary

Attendance (see over)

Present:

Rt Hon Chris Hipkins
Hon Carmel Sepuloni (Chair)
Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Peeni Henare
Hon Priyanca Radhakrishnan
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Willow-Jean Prime
Hon Rino Tirikatene
Jo Luxton, MP

Officials present from:

Office of the Prime Minister
Office of the Chair
Officials' Committee for SWC

PROACTIVELY RELEASED



Cabinet


Minute of Decision

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Report of the Cabinet Social Wellbeing Committee: Period Ended 6 April 2023

On 11 April 2023, Cabinet made the following decisions on the work of the Cabinet Social Wellbeing Committee for the period ended 6 April 2023:

Out of Scope

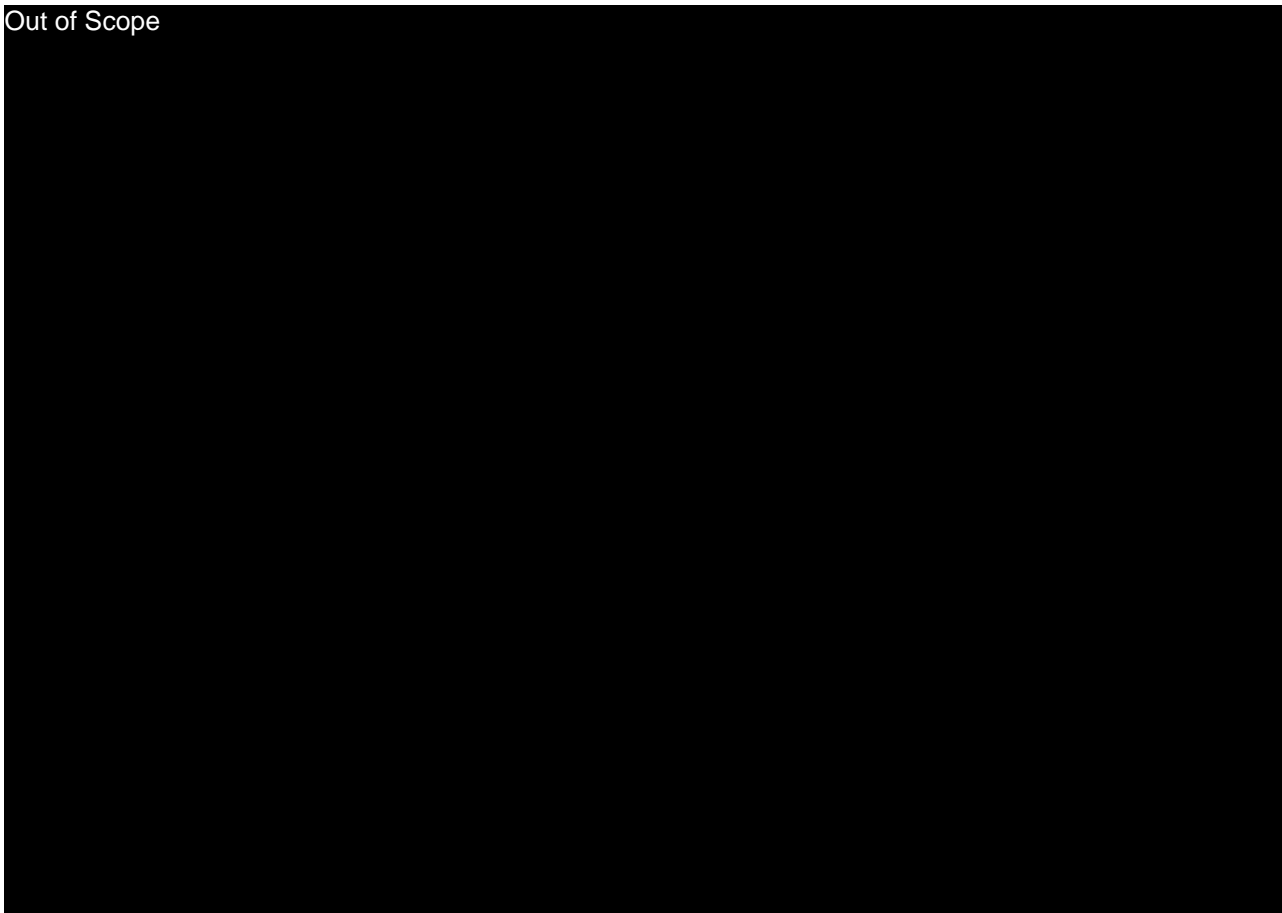


SWC-23-MIN-0026

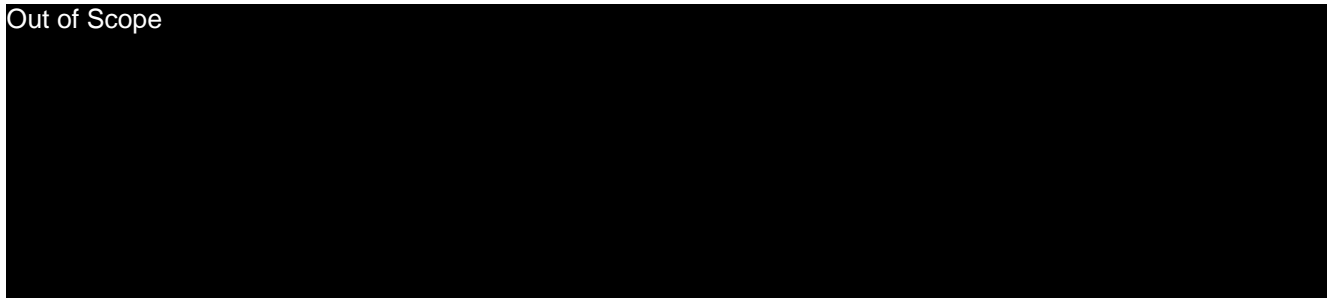
Resale Right for Visual Artists Regulations
Discussion Document: Approval to Consult
Portfolio: Arts, Culture and Heritage

CONFIRMED

Out of Scope



Out of Scope



Rachel Hayward
Secretary of the Cabinet