



Creative Australia Amendment (Implementation of Revive) Act 2024

No. 63, 2024

**An Act to amend the *Creative Australia Act 2023*,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—First Nations First		3
	<i>Creative Australia Act 2023</i>	3
Schedule 2—Writing Australia		11
	<i>Creative Australia Act 2023</i>	11



Creative Australia Amendment (Implementation of Revive) Act 2024

No. 63, 2024

**An Act to amend the *Creative Australia Act 2023*,
and for related purposes**

[Assented to 9 July 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Creative Australia Amendment (Implementation of Revive) Act 2024*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 July 2024
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 2 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	9 September 2024
3. Schedule 2	1 July 2025.	1 July 2025

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—First Nations First

Creative Australia Act 2023

1 Section 3

After:

The Board is responsible for ensuring the proper and efficient performance of Creative Australia’s functions. The Board appoints the CEO, who is responsible for the day-to-day administration of Creative Australia.

insert:

The First Nations Board advises the Board about the responsibilities of First Nations Arts, which is a part of Creative Australia. The First Nations Board has other functions, including to support and invest in a diverse range of Aboriginal and Torres Strait Islander arts practice.

2 Section 4 (definition of *Aboriginal and Torres Strait Islander arts practice*)

After “Islanders”, insert “(or both)”.

3 Section 4

Insert:

Aboriginal person has the same meaning as in the *Aboriginal and Torres Strait Islander Act 2005*.

First Nations Board means the First Nations Board established by section 35B.

First Nations Board member means a member of the First Nations Board, and includes the Co-Chairs.

Torres Strait Islander has the same meaning as in the *Aboriginal and Torres Strait Islander Act 2005*.

4 Section 8

After:

- (d) conducting and commissioning research into, and publishing information about, the arts.

insert:

First Nations Arts, which is part of Creative Australia, has specified responsibilities, including supporting and promoting Aboriginal and Torres Strait Islander arts practice.

5 Before section 16

Insert:

15A First Nations Arts

- (1) There is to be a part of Creative Australia known as First Nations Arts.
- (2) First Nations Arts is responsible for:
 - (a) supporting and promoting Aboriginal and Torres Strait Islander arts practice; and
 - (b) if directed to do so by the First Nations Board—matters relating to the functions and powers referred to in paragraph 35C(1)(a); and
 - (c) any other matter as directed by the Board.
- (3) The CEO must, in writing, designate as the director of First Nations Arts an employee of Creative Australia who is an Aboriginal person or a Torres Strait Islander (or both).
- (4) The CEO must consult the following before designating a person under subsection (3):
 - (a) the Minister;
 - (b) the Co-Chairs of the First Nations Board.

6 After Part 3

Insert:

Part 3A—First Nations Board

Division 1—Introduction

35A Simplified outline of this Part

This Part establishes the First Nations Board.

The First Nations Board has a number of functions, including to support and invest in a diverse range of Aboriginal and Torres Strait Islander arts practice and to advise the Board about the responsibilities of First Nations Arts.

The First Nations Board consists of 2 Co-Chairs and 8 other members. The Minister appoints the members of the First Nations Board.

This Part also deals with the terms and conditions of appointment for First Nations Board members and the procedures of the First Nations Board.

Division 2—Establishment etc. of First Nations Board

35B Establishment

The First Nations Board is established by this section.

35C Functions

- (1) The First Nations Board has the following functions:
 - (a) to perform the following functions and exercise the following powers of Creative Australia:
 - (i) guided by First Nations cultural protocols and principles, to support and invest in a diverse range of Aboriginal and Torres Strait Islander arts practice;
 - (ii) to promote best practice in First Nations cultural protocols in the arts;

- (iii) to provide financial assistance (whether by way of loan, grant, investment, award or otherwise and whether on commercial terms or otherwise) to support the performance of the above functions;
 - (b) to perform other functions, or exercise other powers, of Creative Australia as directed under subsection (2);
 - (c) to advise the Board about the responsibilities of First Nations Arts;
 - (d) to report to the Board on the performance of the above functions;
 - (e) to do anything incidental or conducive to the performance of any of the above functions.
- (2) The Board may direct the First Nations Board to perform other functions, and to exercise other powers, of Creative Australia.

35D First Nations Board budget

The Board must allocate, from money payable to Creative Australia under section 78, to the First Nations Board such money as the Board thinks appropriate for the purposes of the First Nations Board exercising the functions referred to in subsection 35C(1).

35E Board directions

- (1) The Board may give directions to the First Nations Board relating to the performance of the First Nations Board's functions. The First Nations Board must comply with any such directions.
- (2) The Board must not give a direction under subsection (1) in relation to the making of a decision by the First Nations Board, in a particular case, relating to the provision of financial assistance.
- (3) If a direction given under subsection (1) is given in writing, the direction is not a legislative instrument.

35F Membership

- (1) The First Nations Board consists of:
 - (a) 2 Co-Chairs of the First Nations Board; and

-
- (b) 8 other members.
 - (2) For the purposes of the finance law, a First Nations Board member is an official of Creative Australia.

Division 3—Appointment etc. of First Nations Board members

35G Appointment

- (1) The First Nations Board members are to be appointed by the Minister by written instrument.
- (2) Before appointing a First Nations Board member (other than a Co-Chair), the Minister must consult the Co-Chairs of the First Nations Board.
- (3) A person must not be appointed as a First Nations Board member unless:
 - (a) the person is an Aboriginal person or a Torres Strait Islander (or both); and
 - (b) the Minister is satisfied that the person has appropriate qualifications, knowledge, skills or experience.
- (4) A First Nations Board member holds office on a part-time basis.
- (5) A First Nations Board member holds office for the period specified in the instrument of appointment. The period must not exceed 4 years.

Note: A First Nations Board member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.
- (6) A person must not be appointed as a First Nations Board member for a period if the sum of the following exceeds 9 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as a First Nations Board member.

35H Acting appointments

- (1) The Minister may, by written instrument, appoint a First Nations Board member to act as a Co-Chair of the First Nations Board:
 - (a) during a vacancy in the office of a Co-Chair of the First Nations Board (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a Co-Chair of the First Nations Board:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (2) The Minister may, by written instrument, appoint a person to act as a First Nations Board member (other than a Co-Chair):
 - (a) during a vacancy in the office of a First Nations Board member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when a First Nations Board member:
 - (i) is acting as a Co-Chair of the First Nations Board; or
 - (ii) is absent from duty; or
 - (iii) is, for any reason, unable to perform the duties of the office.
- (3) Subsections 35G(3) and (6) apply in relation to appointments under subsections (1) and (2) of this section in the same way as they apply to an appointment under section 35G.
- (4) Subsection 35G(2) applies in relation to appointments under subsection (2) of this section in the same way as it applies to an appointment under section 35G.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

35J Remuneration

- (1) A First Nations Board member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of

that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the rules.

- (2) A First Nations Board member is to be paid the allowances that are prescribed by the rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

35K Leave

- (1) The Minister may grant a Co-Chair of the First Nations Board leave of absence on the terms and conditions that the Minister determines.
- (2) The Co-Chairs of the First Nations Board may grant leave of absence to any other First Nations Board member on the terms and conditions that the Co-Chairs determine.
- (3) The Co-Chairs of the First Nations Board must notify the Minister if the Co-Chairs grant a First Nations Board member leave of absence for a period that exceeds 6 months.

35L Resignation

- (1) A First Nations Board member may resign the member's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

35M Termination

- (1) The Minister may terminate the appointment of a First Nations Board member:
 - (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The Minister must terminate the appointment of a First Nations Board member if:

- (a) the member:
 - (i) becomes bankrupt; or
 - (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with the member's creditors; or
 - (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
- (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the First Nations Board.

35N Other terms and conditions

A First Nations Board member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

Division 4—Procedures of the First Nations Board

35P Procedures

- (1) The First Nations Board may, subject to any direction given under subsection (2), determine its own procedures.
- (2) The Board may give the First Nations Board written directions about the First Nations Board's procedures.
- (3) A direction given under subsection (2) is not a legislative instrument.

7 Transitional provisions

- (1) Paragraph 15A(4)(b) of the *Creative Australia Act 2023*, as inserted by this Schedule, does not apply in relation to an appointment made under subsection 15A(3) of that Act that takes effect at the commencement of this Schedule.
- (2) Subsection 35G(2) of the *Creative Australia Act 2023*, as inserted by this Schedule, does not apply in relation to an appointment made under subsection 35G(1) of that Act that takes effect at the commencement of this Schedule.

Schedule 2—Writing Australia

Creative Australia Act 2023

1 Section 3

Omit:

The Music Australia Council and the Creative Workplaces Council are established to advise the Board about the responsibilities of Music Australia and Creative Workplaces, which are parts of Creative Australia.

substitute:

The Music Australia Council, the Writing Australia Council and the Creative Workplaces Council are established to advise the Board about the responsibilities of Music Australia, Writing Australia and Creative Workplaces, which are parts of Creative Australia.

2 Section 4

Insert:

appointed Writing Australia Council member means a member of the Writing Australia Council other than the CEO.

Writing Australia Council means the Writing Australia Council established by section 47B.

3 Section 8 (paragraph beginning “Music Australia”)

After “Music Australia”, insert “, Writing Australia”.

4 After section 16

Insert:

16A Writing Australia

- (1) There is to be a part of Creative Australia known as Writing Australia.
- (2) Writing Australia is responsible for:
 - (a) supporting and promoting the Australian literature sector; and
 - (b) supporting and promoting the development of markets and audiences for Australian literature; and
 - (c) any other matter as directed by the Board.
- (3) The CEO must, in writing, designate an employee of Creative Australia as the director of Writing Australia.
- (4) The CEO must consult the Minister before designating a person under subsection (3).

5 At the end of subsection 39(2)

Add:

Note: The CEO may delegate this function (see section 84A).

6 After Part 4

Insert:

Part 4A—Writing Australia Council

Division 1—Introduction

47A Simplified outline of this Part

This Part establishes the Writing Australia Council.

The function of the Writing Australia Council is to advise the Board about the responsibilities of Writing Australia. The Board may also direct the Council to perform a particular function, or exercise a particular power, of Creative Australia.

The Council consists of the Chair of the Council and 8 other members. The CEO must be the Chair of the Council and the other members are appointed by the Minister.

This Part also deals with the terms and conditions of appointment for Council members (other than the CEO) and the procedures of the Council.

Division 2—Establishment etc. of Writing Australia Council

47B Establishment

The Writing Australia Council is established by this section.

47C Functions

- (1) The Writing Australia Council has the following functions:
 - (a) to advise the Board about the responsibilities of Writing Australia;
 - (b) to perform a function, or exercise a power, of Creative Australia as directed under subsection (2);
 - (c) to do anything incidental or conducive to the performance of any of the above functions.
- (2) The Board may direct the Writing Australia Council to perform a particular function, and to exercise a particular power, of Creative Australia.
- (3) The Board may give directions to the Writing Australia Council relating to the performance of the Council's functions. The Council must comply with any such directions.
- (4) If a direction given under subsection (2) or (3) is given in writing, the direction is not a legislative instrument.

47D Membership

- (1) The Writing Australia Council consists of:
 - (a) the Chair of the Writing Australia Council; and

- (b) 8 other members.
- (2) The Chair of the Writing Australia Council must be the CEO.
Note: The CEO may delegate this function (see section 84A).
- (3) For the purposes of the finance law, an appointed Writing Australia Council member is an official of Creative Australia.

Division 3—Appointment etc. of appointed Writing Australia Council members

47E Appointment

- (1) The appointed Writing Australia Council members are to be appointed by the Minister by written instrument.
Note: The *appointed Writing Australia Council members* are the members of the Writing Australia Council other than the CEO (see section 4).
- (2) The Minister must consult the Chair of the Writing Australia Council before appointing an appointed Writing Australia Council member.
- (3) A person must not be appointed as an appointed Writing Australia Council member unless the Minister is satisfied that the person has appropriate qualifications, knowledge, skills or experience.
- (4) An appointed Writing Australia Council member holds office on a part-time basis.
- (5) An appointed Writing Australia Council member holds office for the period specified in the instrument of appointment. The period must not exceed 4 years.
Note: An appointed Writing Australia Council member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.
- (6) A person must not be appointed as an appointed Writing Australia Council member for a period if the sum of the following exceeds 9 years:
 - (a) that period;
 - (b) any periods of previous appointment of the person as an appointed Writing Australia Council member.

47F Acting appointments

- (1) The Minister may, by written instrument, appoint an appointed Writing Australia Council member to act as the Chair of the Writing Australia Council:
 - (a) during a vacancy in the office of Chair of the Writing Australia Council (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Chair of the Writing Australia Council:
 - (i) is absent from duty; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- (2) The Minister may, by written instrument, appoint a person to act as an appointed Writing Australia Council member:
 - (a) during a vacancy in the office of an appointed Writing Australia Council member (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when an appointed Writing Australia Council member:
 - (i) is acting as the Chair of the Writing Australia Council; or
 - (ii) is absent from duty; or
 - (iii) is, for any reason, unable to perform the duties of the office.
- (3) Subsections 47E(3) and (6) apply in relation to appointments under subsection (2) of this section in the same way as they apply to an appointment under section 47E.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

47G Remuneration

- (1) An appointed Writing Australia Council member is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid the remuneration that is prescribed by the rules.

- (2) An appointed Writing Australia Council member is to be paid the allowances that are prescribed by the rules.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

47H Leave

- (1) The Minister may grant the Chair of the Writing Australia Council leave of absence on the terms and conditions that the Minister determines.
- (2) The Chair of the Writing Australia Council may grant leave of absence to any appointed Writing Australia Council member on the terms and conditions that the Chair determines.
- (3) The Chair of the Writing Australia Council must notify the Minister if the Chair grants an appointed Writing Australia Council member leave of absence for a period that exceeds 6 months.

47J Resignation

- (1) An appointed Writing Australia Council member may resign the member's appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

47K Termination

- (1) The Minister may terminate the appointment of an appointed Writing Australia Council member:
 - (a) for misbehaviour; or
 - (b) if the member is unable to perform the duties of the member's office because of physical or mental incapacity.
- (2) The Minister must terminate the appointment of an appointed Writing Australia Council member if:
 - (a) the member:
 - (i) becomes bankrupt; or

- (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
- (iii) compounds with the member's creditors; or
- (iv) makes an assignment of the member's remuneration for the benefit of the member's creditors; or
- (b) the member is absent, except on leave of absence, from 3 consecutive meetings of the Writing Australia Council.

47L Other terms and conditions

An appointed Writing Australia Council member holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

Division 4—Procedures of the Writing Australia Council

47M Procedures

- (1) The Writing Australia Council may, subject to any direction given under subsection (2), determine its own procedures.
- (2) The Board may give the Writing Australia Council written directions about the Council's procedures.
- (3) A direction given under subsection (2) is not a legislative instrument.

7 After section 84

Insert:

84A Delegation by the CEO

- (1) The CEO may, in writing, delegate the CEO's functions under subsection 39(2) or 47D(2) to:
 - (a) an employee of Creative Australia who holds, or is acting in, the position of director or an equivalent higher position; or
 - (b) a Board member.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) In performing a function, or exercising a power, delegated under subsection (1), the delegate must comply with any directions of the CEO.

8 Transitional provision

Subsection 47E(2) of the *Creative Australia Act 2023*, as inserted by this Schedule, does not apply in relation to an appointment made under subsection 47E(1) of that Act that takes effect at the commencement of this Schedule.

*[Minister's second reading speech made in—
House of Representatives on 5 June 2024
Senate on 2 July 2024]*

(70/24)
