

RRA Distribution Policy

Policy for Distribution of Royalties to Visual Artists

As approved by RRA Board on 29/11/24

Introduction

This policy outlines the processes that the Resale Royalties Aotearoa (**RRA, we/us/our**) will follow to distribute royalties owed to eligible visual artists (and their eligible successors) (**Right Holders**). Eligibility is determined under the resale royalty payment scheme (**Scheme**) (as set out in the Resale Right for Visual Artists Act 2023 (**Act**) and the Resale Right for Visual Artists Regulations 2024 (**Regulations**)). This policy outlines how payments may be made to Right Holders who are New Zealand-based and Right Holders who are based in a reciprocating country. The objective of this policy is to ensure transparency, fairness, and efficiency in the distribution of resale royalties, in compliance with the Act, the Regulations, the New Zealand Privacy Act 2020 and any other applicable law.

You can read more about the Scheme on our [website](#), including our guides. If you have any further queries, you may contact us via our "[Contact Us](#)" form on our website.

In this policy, we have referred to "reciprocating country", "New Zealand-based", "resale royalty", "qualifying resale" and "art market professional". Those terms are defined in the Act.

RRA Board may update this policy from time to time by publishing an updated distribution policy on our website. We encourage you to regularly check our website. Any updated policy will take effect from the date the updated policy is published. The date this policy was last updated is 11th November 2024.

Collecting and distributing resale royalties

The process we will follow to collect and distribute resale royalties is as follows:

1. A qualifying resale is reported to RRA.

Art market professionals (or such other person required by the Act – see our Guide for Art Market Professionals) must notify us of any qualifying resale in writing within 60 working days after the date on which the qualifying resale is completed.

If we are aware of any qualifying resale that has not been notified to us by the art market professional (or other relevant person), we will notify the relevant art market professional of their obligations under the Scheme, to the extent their details are known.

2. RRA review.

We will review each qualifying resale notification for completeness and to check that it matches any other records we have received (e.g. from Right Holders).

3. Invoice.

We will invoice the relevant person/s liable to pay us the resale royalty.

The persons that are responsible for paying us under section 17 of the Act are the seller and either:

- a. the agent acting for the seller on the resale; or
- b. if the seller does not have an agent, the agent acting for the buyer on the resale; or
- c. if there are no agents, the buyer.

We will issue this invoice within 10 working days of our receipt of any notification under step 1 of this process provided such notification has all of the necessary information for us to issue our invoice (and

if not, then 10 working days from the date that we have all the necessary information such as the contact details of the person required to pay us under section 17 of the Act and the resale royalty amount).

4. Payment received by RRA.

Payment of a resale royalty payment must be received by us within 60 working days after the later of the following:

- a. The date on which the qualifying resale is completed
- b. The earliest date on which a person liable under section 17 of the Act becomes aware that they are liable to pay the resale royalty (i.e., at latest, the date of our invoice).

5. Identifying Right Holders.

We will take the steps required under the Act to locate and verify the identity of each Right Holder that is owed a resale royalty payment.

In cases where we do not have contact details for a Right Holder, the following steps will be taken to locate them:

- a. Conducting searches through various data sources such as search engines and licensed databases.
- b. Collaborating with the equivalent of the collection agency in a reciprocating country.
- c. Collaborating with partner organisations as permitted under any partner agreements.

Before a Right Holder is paid, Right Holders will be required to provide us with an image of a valid form of identification. This may be a passport, driver's license, birth certificate, or such other identity information or certification that we are prepared to accept in our discretion. We will manually verify the identity of the Right Holder. Right Holders who sign up to our portal will be asked to provide a form of identification when they register as a participant in the Scheme.

If we believe that there are 2 or more Right Holders who are entitled to a resale royalty payment, we will need to determine each Right Holder's shareholding prior to making any distribution. That process is detailed at the paragraph headed *Joint Right Holders* below.

Note that Right Holders may decline to receive part or all of a resale royalty. Declined resale royalties will be distributed to the cultural fund established under the Scheme (less our administrative fee) or if there is no cultural fund, it will be dealt with in accordance with the Regulations (which could include returning it to the person who paid it, or using it to fund our operations).

6. Payment to Right Holder.

We will take all steps required under the Act and/or Regulations to pay the Right Holder the resale royalty (less any administrative fee that we are entitled to retain) in a timely manner after we receive the relevant resale royalty. We have no obligation to pay a Right Holder until we receive the relevant resale royalty from the person obliged to pay it to us.

7. New Zealand-based Right Holders

The section of the policy under the heading New Zealand-based Right Holders is only applicable to New Zealand-based Right Holders.

We will process resale royalty distributions as follows:

- a. On a cyclical basis, we will notify all Right Holders for who we have completed steps 1 through 5 above via email that we have identified them as the relevant Right Holder of a resale royalty payment, along with the details of the artwork underlying the qualifying resale, and inviting them to complete steps 7.b.i to 7.b.iii to claim and process their payment.
- b. Following notification, and before any payment is made:

- i. The Right Holder must confirm that they wish to claim (and not decline) the payment of the resale royalty.
- ii. The Right Holder must confirm that they are in fact the Right Holder, confirm any information associated with their profile, and provide us with any information that we reasonably request to process the payment of the resale royalty, including their bank account details and any document we need to verify their identity and/or bank account details.
- iii. The Right Holder must agree to our standard warranty and indemnity. The indemnity will shift liability to the Right Holder (and not us) if there is any third party claim caused by information provided to us by the Right Holder that is inaccurate or misleading (for example, if the Right Holder fails to disclose a joint Right Holder). The purpose of the indemnity is to ensure that we are receiving accurate information from Right Holders. This is essential to ensure that resale royalties are distributed in an accurate and timely manner. Right Holders may do this by logging into the RRA portal and clicking to “accept” the warranty and indemnity as part of the claim acceptance process.

New Zealand-based Right Holders may action the above steps 7.b.i to 7.b.iii by logging into the RRA portal and following the steps as prompted via the portal. Right Holders who do not wish to use the RRA portal must contact us via the [“Contact Us”](#) form on our website to initiate a manual claim process. For the avoidance of doubt, Rights Holders will not be able to initiate steps 7.b.i to 7.b.iii until and unless RRA has first completed and issued a valid notification (step 7.a).

We will complete payment to Right Holders within 10 working days of a properly formed and successfully submitted claim (i.e. completion of all steps 7.a through 7.b.iii above).

8. **Foreign Right Holders**

The section of the policy under the heading *Foreign Right Holders* is only applicable to Right Holders who are not New Zealand-based and are a citizen or subject of, or a person domiciled or resident in, a reciprocating country (**Foreign Right Holder**).

We will make resale royalty payments to Foreign Right Holders on a cyclical basis, which will be at least on an annual basis (to be periodically reviewed).

We will make payment of the resale royalty to the relevant equivalent of the collection agency in a reciprocating country within a reasonable time frame of our confirmation of the relevant Foreign Right Holders. Any liability we have in connection with distributing the resale royalty payment owed to a Foreign Right Holder will be discharged when we make the relevant resale royalty payment to the equivalent of the collection agency in the relevant reciprocating country (unless discharged earlier under this policy, the Act or Regulations).

9. **Holding funds**

The resale royalties that we collect will be held in a separate bank account to our own operating account and will be specifically designated as resale royalty funds in applicable ledger accounts to ensure that resale royalty funds are not used for our operating expenses.

Resale royalty funds will be held in interest bearing term deposits. All interest accrued on resale royalty funds will accrue to our benefit – this means that we are entitled to use any interest on those term deposits and that interest will not be passed onto the Right Holders.

We will hold any unclaimed resale royalties for 6 years from the date we receive the resale royalty. After this period, any unclaimed royalties will be dealt with in the same manner as declined resale

royalties ie distributed to the Cultural Fund (as per clause 5 above). Note the Cultural Fund will be held in a separate interest bearing term deposit.

10. Claiming an unpaid resale royalty

We will periodically inspect and audit published auction sale results to monitor compliance with the Act and Regulations. However, because we rely on art market professionals and other stakeholders in the Scheme to notify us of resale payments that are due on qualifying resales, we may occasionally not be aware of a qualifying resale.

A Right Holder who believes that a qualifying resale has taken place is encouraged to notify us through the "Contact Us" form available on our website.

Right Holders have 6 years from the date of the qualifying resale to notify us of any claim from the date of the resale. After that period expires, we will have no liability to the Right Holder to collect or pay the resale royalty.

If a Right Holder wishes to notify us of a resale royalty they think they are owed, they must provide us with:

- Evidence that the person is the Right Holder
- Evidence that the relevant resale is a qualifying resale
- The names of the persons liable under section 17 of the Act to pay the resale royalty, if known (see step 3 of our collection and distribution process above).

On receipt of such a notice from a Right Holder, we will use reasonable efforts to verify the claim. If the claim is verified and we have not already processed the relevant resale royalty payment, we will notify the persons who are liable to pay the resale royalty of their obligations under the Scheme and follow our process set out above for collecting and distributing the resale royalty payment. We will then have no further obligation to the Right Holder until we receive the resale royalty payment. While we will use reasonable efforts to resolve claims, we cannot guarantee any particular outcome.

11. Joint Right Holders

Under the Act:

- Joint artists hold any resale right in equal shares, unless there is a signed agreement stating otherwise and specifying a split of the resale right.
- Joint successors (i.e. where there is more than one successor to a resale right or share of a resale right) hold the share of the right each of them inherits or that is transferred to them.

We may ask for any information that we think is reasonable to verify the proportionate split of the resale right among joint Right Holders. We may, for example ask:

- that joint Right Holders each confirm the share of the resale right that they hold;
- that joint Right Holders provide us with the name of each other Right Holder and their respective share of the resale right (if known); or
- if a Right Holder claims a specific share of the resale right that would not result in an equal split between joint Right Holders, for that Right Holder to substantiate that with evidence of their claim. For eligible artists, this needs to be a validly signed agreement stating how the resale right is shared. For successors, this may be an assignment of the resale right, a will that has been through probate, or other valid document that is reasonably acceptable to us.

Once we are satisfied (in our sole discretion) of the share of the resale right held by a joint Right Holders, we may at any time proceed with the distribution of that resale right in accordance with our collection and distribution process. To resolve any disputes about the split of the resale right, we may

share any documentation that we receive to substantiate the evidence of a Right Holders' claim to any other person who we reasonably believe may be a joint Right Holder.

For eligible artists, if we determine (in our reasonable opinion) that there is no validly signed agreement stating how the resale right is shared, we will pay the resale right as an even split among eligible artists.

If within [60] working days of the date that we receive the resale royalty, we are not able to verify the split of the resale right to our satisfaction, Right Holders are encouraged to attend mediation to resolve any dispute. We may rely on any binding agreement between Right Holders relating to the split of the resale right.

If we are still not satisfied of the split of the resale right amongst joint Right Holders within 24 months of the date that we receive the resale royalty, we may (in our sole discretion):

- continue to hold the resale royalty until the expiry of the 6 year period from the date on which we receive the resale royalty, after which our liability to pay the resale royalty is discharged; and/or
- at any time, distribute the resale royalty in whatever manner we deem appropriate taking into consideration the information we have received and the relevant provisions of the Act and Regulations.

12. **Complaints and disputes**

Right Holders and any other stakeholders in the Scheme who wish to file a complaint can refer to our complaints policy, which is detailed on the "[Complaints](#)" page on our website. This policy provides a clear process for addressing and resolving complaints related to the Scheme.

We will forward any complaints about the Scheme or regulatory settings under the Scheme on to Manatū Taonga - Ministry for Culture and Heritage for response.

If there is a dispute between anyone who is responsible for paying us the resale royalty under section 17 of the Act, it is not our legal obligation to resolve that dispute. While we may (in our sole discretion) use good faith efforts to attempt to resolve disputes, we have no responsibility to do so, and any disputes amongst the parties who are responsible for paying us the resale royalty should be resolved between those parties.

Each of the relevant persons under section 17 of the Act are jointly and severally obliged to pay us the royalty resale. This means that each of them is obliged to pay us the full amount of the resale royalty. While we will use reasonable efforts to collect any resale royalty payments that are overdue, we do not have any obligation to take any action to enforce an obligation to pay us a resale royalty payment. For example, we are not obliged to engage a debt collection agency.

13. **Contacting RRA**

Participants in the Scheme can submit feedback or questions via the "Contact Us" form. We encourage participants in the Scheme to engage with us and provide feedback so that we can continue to improve our services to Right Holders under the Scheme.

14. **Privacy**

We will collect, store, use and disclose personal information we collect in accordance with our [privacy policy](#).