A REPORT BY THE AUDITOR GENERAL FOR SCOTLAND UNDER SECTION 22(3) OF THE PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT 2000

THE 2006/07 AUDIT OF THE SCOTTISH ARTS COUNCIL

1. I have received the audited accounts of the Scottish Arts Council (SAC) for the year ended 31 March 2007. The auditors' report on the regularity of expenditure is qualified because of payments to SAC's former chief executive which were not approved properly. The auditor's report on the accounts of the SAC's National Lottery Fund is similarly qualified.

2. I submit these accounts and the auditor's report in terms of sub-section 22(4) of the Public Finance and Accountability (Scotland) Act 2000, together with this report which I have prepared under sub-section 22(3) of the Act.

3. Under section 22(1) of the Public Finance and Accountability (Scotland) Act 2000, auditors are required to include within their annual audit report an opinion as to whether, in all material respects, the expenditure and income shown in the accounts were incurred or applied in accordance with applicable enactments and guidance issued by Scottish Ministers. This element of the audit report is known as the 'regularity assertion'.

4. The SAC is a non-departmental public body responsible for the distribution of public funds to support the arts. Its purpose is to develop and improve the knowledge, understanding and practice of the arts; to increase accessibility of the arts to the public; and to advise and co-operate with other bodies and organisations with similar interests. The SAC's expenditure in the year to 31 March 2007 totalled £67.5 million of which some £64.4 million was spent on support of the arts. During the year the SAC received grant-in aid payments of £62.5 million from the Scottish Executive and a further £3.4 million of other income

5. Since February 2007 SAC and Scottish Screen have been operating under a joint board to take forward Scottish Executive plans to replace the two organisations with a new body called Creative Scotland.

6. The remuneration report in SAC's financial statements for 2006/07 refers to payments totalling £70,000 made to its former chief executive. In January 2007 SAC's chief executive informed its chairman and the Council of his intention to retire early. The joint board agreed that the early departure of the chief executive would help SAC and Scottish Screen to work closely together in advance of the establishment of Creative Scotland. Since SAC did not have a remuneration committee, a sub-committee of the joint board was established to review options available for terminating the chief executive's employment.

7. The sub-committee rejected early retirement in favour of an alternative. They decided that the £120,000 cost of early retirement on full pension was too high. They recommended an alternative agreement whereby the chief executive voluntarily resigned from his post with effect from February 2007 in exchange a payment of £40,000 in lieu of taxable salary for outstanding notice and an ex-gratia payment of £30,000. The agreement also absolved SAC from any further liability. The auditor has recommended improvements in the way such decisions are taken in future by highlighting the benefits of a formal remuneration committee and the need for clear minutes of meetings to ensure decisions are taken in an open and transparent way.

8. SAC must comply with the Scottish Public Finance Manual (SPFM) issued by Scottish Ministers. Under SPFM rules compensation is only payable in exceptional circumstances to staff who resign from their post voluntarily. Such payments must also be approved by Scottish Executive finance officials before any offer is made. In March 2007, the Minister for Tourism, Culture and Sport wrote to SAC's Chairman noting that SAC had considered options in terms of costs and effectiveness of the organisation during the period of transition to creative Scotland but that action in relation to the chief executive's departure represented a breach of the SFPM. The auditor found no evidence of Scottish Executive approval and concluded that SAC had not complied with Ministerial guidance in this respect and qualified the regularity opinion.

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ROBERT W BLACK
Auditor General for Scotland