

Screen Industry Workers Bill

Government Bill

Explanatory note

General policy statement

Introduction

The Screen Industry Workers Bill introduces a workplace relations framework for contractors working in the screen industry. This framework will—

- provide clarity about the employment status of people doing screen production work; and
- introduce a duty of good faith and mandatory terms for contracting relationships in the screen industry; and
- allow collective bargaining at the occupation and enterprise levels; and
- create processes for resolving disputes arising from contracting relationships or collective bargaining.

The Bill provides workplace protections for screen production workers, while ensuring certainty and flexibility for our internationally-competitive screen industry.

Background

The Employment Relations (Film Production Work) Amendment Act 2010 amended the Employment Relations Act 2000 to address uncertainty about the employment status of film production workers, which arose in relation to The Hobbit films. This uncertainty stems from how employment status is determined under the Employment Relations Act 2000: if challenged, an individual’s employment status is for the courts to determine using common law tests about the real nature of the relationship between parties.

The 2010 change provided certainty about film production workers’ employment status by excluding them from the definition of an “employee” under section 6 of the

Employment Relations Act 2000. The exception is if they are party to or covered by a written employment agreement that specifies they are employees.

Today, most film production workers are engaged as contractors, and cannot challenge their employment status. They therefore cannot access the rights and obligations of New Zealand's employment relations and employment standards system. One such right is the ability to bargain collectively, which allows groups of workers to jointly negotiate terms and conditions with the firms that hire them.

In 2018, the Government established the Film Industry Working Group, which was tasked with designing a model to allow film production workers to bargain collectively, without necessarily reversing the changes made in 2010. The Screen Industry Workers Bill gives effect to recommendations made by the Film Industry Working Group in October 2018, which were accepted in large by the Government in June 2019.

Employment status of screen production worker

The Bill provides continued certainty about the employment status of screen production workers. It does this by repealing the changes made in 2010, and instead providing more detailed definitions of "screen production worker" and "screen production". It says that people doing screen production work are employees if they are party to or covered by a written employment agreement specifying they are an employee, and therefore covered by employment law.

This means—

- screen production workers, according to the definition in this Bill, are employees if they are party to or covered by a written employment agreement specifying they are employees:
- screen production workers who are not employees are covered by this Bill (for example, can bargain collectively according to the Bill's bargaining process, and have other rights provided by the Bill):
- for any workers in the screen industry who do not meet the Bill's definition of a screen production worker, their employment status is determined by section 6 of the Employment Relations Act instead of this Bill.

Good faith and mandatory contract terms

The Bill introduces a good faith obligation for contracting relationships in the screen industry: parties must not mislead or deceive one another, or do anything that could mislead or deceive one another.

The Bill requires all individual contracts for screen production work between screen production workers and those who engage them to include certain mandatory terms.

All individual contracts must include a description of the process by which a complaint of bullying, discrimination or harassment in the workplace may be raised and how that complaint will be addressed.

In relation to termination, all individual contracts must also state what the notice period for termination is, and what payment (if any) must be made to the worker by the engager.

Collective bargaining

This Government is committed to restoring collective bargaining rights for screen production workers.

To allow fair and orderly collective bargaining, the Bill creates a framework that workers and engagers in the screen industry must use if they wish to bargain collectively. Bargaining will be possible at two levels: at the occupation level (for example, for all performers, writers, or production/post-production technicians) and at the enterprise level (for example, within a single production company or screen production).

Collective bargaining will produce “occupation-level collective contracts” or “enterprise-level collective contracts”. All collective contracts will have to contain certain terms (for example, pay, breaks, hours of work). Collective contracts will effectively set minimum terms for all the work they cover, which can be improved on in workers’ individual contracts.

Occupation-level collective contracts will apply to an entire occupation of workers (for example, all performers, all writers, or all production/post-production technicians). An important safeguard is that bargaining may only be initiated if the Employment Relations Authority is satisfied there is sufficient support for bargaining on the side of the initiating party. Another safeguard is that occupation-level collective contracts need to be ratified by way of a vote. All workers in the affected occupation are entitled to participate in this ratification vote regardless of union or guild membership. The occupations are defined in *Schedule 3* of the Bill. They may be amended by Order in Council so the legislation can adapt to the emergence of new or more specialised occupations in the screen industry.

Enterprise-level collective contracts will operate in a different manner to occupation-level collective contracts. Both workers and engagers need to agree to initiate bargaining for an enterprise-level collective contract. Enterprise-level collective contracts are binding on signatory parties as well as workers within that enterprise who are members of a worker organisation that is a signatory party.

Individual contracts must not contain terms that are less favourable to workers than any term in an applicable occupation-level or enterprise-level collective contract. An enterprise-level contract must not contain terms that are less favourable to workers than any term in an applicable occupation-level collective contract.

Industrial action is prohibited during collective bargaining. This was unanimously proposed by the Film Industry Working Group because of the volatility and international mobility of the screen industry.

Effect on existing contracts

All contracts entered into before commencement of this Bill will have 1 year to comply with—

- the requirement to have a written individual contract that includes certain mandatory terms, and
- the terms in any applicable occupation-level collective contract.

Dispute resolution

The Bill provides processes to resolve disputes that may arise in the course of a contracting relationship or collective bargaining.

For contract disputes, the Bill clarifies that Employment Mediation Services will provide free mediation. The Employment Relations Authority can also make a determination to resolve a dispute if necessary.

For bargaining disputes, Employment Mediation Services will provide free mediation, and the Employment Relations Authority can make determinations. However, parties can request assistance from the Authority in the form of facilitation before seeking a determination.

For bargaining disputes that involve fixing a term in an occupation-level collective contract, parties must first attempt mediation and facilitation, and if those are unsuccessful, the Authority must fix the term using the Bill's final offer arbitration process. The final offer arbitration process is also available for fixing terms in enterprise-level collective contracts. However, bargaining parties in this case can agree to use any other method to resolve such disputes.

Workplace access

The Bill provides for worker organisations to request access to workplaces where screen production work is taking place, but gives production companies the ability to refuse access if it would unreasonably impede screen production activity. This balances the need for registered worker organisations to access workplaces for legitimate business under the Bill, with avoiding unnecessary disruption to screen productions.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=219>

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 24 May 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/assets/253f6497a5/government-response-to-the-film-industry-working-groups-recommendations.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force 28 days after it is enacted.

Part 1

Preliminary provisions

Clause 3 sets out the purpose of the Bill.

Clause 4 provides an overview of the Bill. It is organised into 5 Parts and 4 Schedules.

Clause 5 determines the employment status of workers in the screen industry to which the Bill applies (and not section 6(2) of the Employment Relations Act 2000). If an individual falls within the definition of screen production worker in *clause 11*, the Bill applies to the person, provided the person is not a party to or covered by a written employment agreement stating that the person is an employee. Section 6 of the Employment Relations Act 2000 is only relevant to determining the employment status of any workers in the screen industry who do not fall within the definition of a screen production worker.

Clause 6 provides that the Bill has effect despite anything to the contrary in any contract or other agreement.

Clause 7 provides that nothing in section 27 or 30 of the Commerce Act 1986 (which relate to restrictive trade practices) applies to, or in respect of, any matter or thing authorised by the Bill.

Clause 8 provides that the Bill binds the Crown.

Clause 9 refers to *Schedule 1*, which sets out a transitional provision in relation to certain contracts entered into before the Bill is enacted.

Clause 10 is the general definition section. It defines terms used throughout the Bill, including bargaining (in relation to a collective contract), collective contract, engager, occupational group, screen production, worker organisation, and workplace relationship. (The definition of screen production needs to be read in conjunction with *clause 12*, which, in combination with *Schedule 2*, specifies the screen productions to which the Bill applies.) *Clause 10(2) and (3)* provides guidance as to how to interpret any

provision of the Bill that applies 1 or more provisions of the Employment Relations Act 2000 using the wording *with any necessary modifications*.

Clause 11 defines a screen production worker. (This definition also needs to be read in conjunction with *clause 12*.)

Clause 12 provides that the Bill only applies to the screen productions described in *clause 1 of Schedule 2* (and, conversely, does not apply to the productions described in *clause 2* of that schedule).

Part 2

Workplace relationships and individual contracts

Subpart 1—Workplace relationships

Clause 13 provides that parties to a workplace relationship must act in good faith. For the purposes of this section, good faith is limited to the parties not doing anything to mislead or deceive each other or doing anything that is likely to mislead or deceive each other.

Clause 14 prohibits a person from exerting undue influence on a screen production worker with the intention of inducing the worker to do or not do certain things (for example, join or not join a worker organisation or participate or not participate in collective bargaining, or be covered or not covered by a collective contract).

Clause 15 provides a penalty for breaches of *clause 13* or *14*.

Subpart 2—Individual contracts

Clause 16 sets out the requirements for an individual contract between a screen production worker and their engager. The contract must be in writing and contain the terms specified in *clause 17* and, if the coverage clause of any collective contract applies to the worker, the terms of that contract (if required to be included in individual contracts). The contract is deemed to contain every other term of any collective contract that is applicable to the worker and is not otherwise covered by a term of the individual contract to the same effect or to a more favourable effect.

Otherwise, this clause authorises the contract to contain any other terms that the parties agree except any terms that are less favourable to the worker, individually, or in their overall effect, than the terms of any collective contract that apply.

Clause 17 sets out the terms that must be included in every individual contract between a screen production worker and their engager.

Clause 18 prohibits an engager from terminating a screen production worker's contract if the decision to do so is motivated by the worker exercising or proposing to exercise any right or remedy conferred on the worker by a term of the worker's contract or by this Bill.

Clause 19 invites an engager and a screen production worker to resolve any dispute that arises between them that relates to the worker's individual contract to use the dispute resolution procedures set out in *subpart 1 of Part 4* of the Bill.

Clause 20 provides penalties for failing to comply with the requirements relating to individual contracts.

Part 3 Collective bargaining

Subpart 1—Registration as worker or engager organisation

Clause 21 sets out how an incorporated society may apply to register as a worker organisation or an engager organisation if it is entitled to do so under *clause 22*. A society must register as a pre-condition to being able to participate in or initiate collective bargaining, or both (*see clause 36*). To be entitled to register as a worker organisation or an engager organisation, *clause 22* requires a society to be either a registered union with a current certificate of registration (issued under the Employment Relations Act 2000 or the Trade Unions Act 1908) or a society that satisfies the requirements of *clause 22(2)*.

Clause 23 requires the Registrar of Screen Industry Organisations (the **Registrar**), a position established by *clause 71* of the Bill, to register worker organisations and engager organisations and provide them with a certificate of registration. The Registrar must maintain a list of the organisations on the website of the department responsible for the Bill (currently the Ministry of Business, Innovation, and Employment).

Clause 24 requires each worker organisation and engager organisation to file an annual return of members.

Clause 25 provides for the cancellation of a worker organisation's or an engager organisation's registration in 2 specific circumstances; the organisation requests the cancellation or the Employment Relations Authority (the **Authority**) makes an order directing the cancellation. The Authority may do so only if the organisation no longer satisfies the requirements of registration in *clause 22*.

Subpart 2—Matters applying to all collective bargaining

Clause 26 requires collective bargaining to be carried out in good faith and provides, in *subclause (1)*, minimum requirements that must be met for that purpose, including the providing of information to support or substantiate claims or responses to claims made for the purposes of bargaining. *Subclause (7)* provides a penalty for failing to comply with any provision of this clause.

Clause 27 requires the parties bargaining for a collective contract to conclude a contract as part of the duty of good faith under *clause 26*.

Clause 28 prohibits industrial action (as defined in the clause) during bargaining for a collective contract, whether on the part of engagers or screen production workers, if the action is intended to undermine or affect the outcome of the bargaining and irrespective of whether the engagers are parties to, or the workers represented at, the bargaining.

Clause 29 provides a penalty for a breach of *clause 28*.

Clause 30 deals with requests for information made during the bargaining process (referred to above in relation to the explanation of *clause 26*). A request must follow the procedure set out in this clause, which includes a process for an independent reviewer to be involved in disseminating information if the bargaining party providing the information considers that it should be treated as confidential information. Any information provided under this clause must only be used for the purposes of the bargaining concerned, be treated as confidential by the parties, and must not be disclosed by the parties to anyone else.

Clause 31 sets out the form and content requirements of all collective contracts.

Clause 32 sets out the terms that must be included in every collective contract.

Clause 33 sets out the permissible boundaries of any exemption provision for the purposes of *clause 32(3)(c)*.

Clause 34 provides for the maximum and minimum requirements as to the duration of collective contracts. A contract may be in force, from its commencement date, for no less than 3 years and no more than 6 years, with a possible extension of no more than 12 months if bargaining for a replacement contract has been initiated before the contract expires.

Clause 35 requires the bargaining parties, as soon as practicable after a collective contract is signed, to deliver a copy of it to the chief executive of the department responsible for the administration of the Bill, once enacted (currently the Ministry of Business, Innovation, and Employment). If the contract is an occupation-level collective contract, the chief executive must give notice in the *Gazette* of the contract and publish it on the department's Internet site.

Subpart 3—Matters applying to bargaining for occupation-level collective contracts

Clause 36 sets out the preliminary requirements for a party to be involved in bargaining for an occupation-level collective contract. These are two-fold. To be a bargaining party, a person must be a registered worker organisation or an engager organisation. To initiate bargaining, a party must also apply to the Authority and the Authority must decide under this subpart whether to allow bargaining to be initiated (as well as certain matters relating to the conduct of the bargaining).

Clause 37 sets out how a worker organisation or an engager organisation may apply to initiate bargaining and *clause 38* stipulates when an application may be made (which is dependent on whether it is a worker organisation or an engager organisation

making the application and if there is any collective contract that applies to the same occupational group currently in force).

Clause 39 requires the Authority to give notice of any application it receives on its Internet site, invite submissions from any persons, and provide details on how and when submissions must be made and received. The clause authorises the content of a submission to vary depending on the category of person submitting, so long as the requirements are prescribed in regulations (and in accordance with *clause 75(2)* only for the purposes of the Authority making decisions for the purposes of *clause 40*).

Clauses 40, 41, and 42 require the Authority to make certain decisions about applications to initiate bargaining. Under *clause 40*, the Authority must decide whether to allow bargaining. The test it must apply is whether there is sufficient support for bargaining, essentially being a test of whether there are more workers or engagers (depending on whether the initiating party is a worker organisation or an engager organisation) in favour than opposed to the bargaining being initiated. Under *clause 41*, the Authority must determine who the bargaining parties are to be and under *clause 42*, the Authority must decide which worker organisation will be responsible for carrying out the ratification vote once bargaining has concluded.

Clause 43 requires the Authority to publish on its Internet site all its decisions under *clause 40* on whether to allow bargaining to be initiated (and, for successful applications, its decisions made under *clauses 41 and 42*). Decisions on successful applications must identify the occupational group to be specified in the coverage clause, the bargaining parties to the contract, the worker organisation that will conduct the ratification vote, the process it will use, and any occupation-level collective that currently applies to some or all of the workers or the most recently expired contract.

Clause 44 permits the Authority to remove a worker organisation or an engager organisation from being a bargaining party in the circumstances listed in *subclause (1)*, however, the removal of the organisation does not affect the application of the collective contract to any worker who does the work of the occupational group to be specified in the coverage clause of the contract or any engager who engages such a worker (*see subclause (3)*).

Clause 45 sets out the process for bargaining to be initiated (once the Authority's approval to do so has been given).

Clause 46 applies once the bargaining parties have agreed the terms of the collective contract they wish to put forward for ratification. The worker organisation or engager organisation who initiated the bargaining must submit the draft to the Authority for assessment as to its compliance with *clause 31(1)(a), (2), and (3)*. If the Authority does not approve the draft, the parties may revise it and resubmit it.

Clause 47 then sets out how the ratification vote must be carried out, voters being all those screen production workers who do the work of the occupational group to be covered by the collective contract and who are eligible to vote. Eligibility is dependent on whether the worker is or has been a party to a contract with an engager in

respect of work of that type in the previous 3-year period (as defined in *subclause (7)*).

Clause 48 specifies the persons to whom an occupation-level collective contract applies.

Clause 49 sets out when an occupation-level collective contract commences and when its terms apply to each screen production worker's individual contract.

Subpart 4—Matters applying to bargaining for enterprise-level collective contracts

Clause 50 states that the bargaining parties for an enterprise-level collective contract may be only 1 or more worker organisations and 1 or more engagers (even if the engagers use an engager organisation to act on their behalf during the bargaining).

Clause 51 requires enterprise-level collective bargaining to be initiated by giving notice in writing to the other bargaining parties of the intended coverage clause of the contract and the time by which parties served with the notice may respond in writing. Bargaining is initiated only if all parties that receive the notice respond in writing within that time-frame.

Clause 52 prohibits bargaining parties to agree any terms that would have the effect of being less favourable to the screen production workers to whom the contract will apply than any occupation-level contract that applies to those workers.

Clause 53 requires any worker organisation that is a bargaining party to the contract to have the terms of the contract ratified by its members who are screen production workers who do the work specified in the coverage clause of the contract before the worker organisation signs the contract. The section does not apply if the bargaining relates to a screen production for which the engager or engagers have not yet engaged any workers to whom the contract would apply (known as a greenfields situation).

Clause 54 specifies the persons to whom an enterprise-level collective contract applies.

Clause 55 sets out when an enterprise-level collective contract commences and when its terms apply to each screen production worker's individual contract.

Part 4

Dispute resolution, challenges, reviews, penalties, and offences

Subpart 1—Dispute resolution, challenges, and reviews

Clause 56 sets out general matters relating to dispute resolution. *Subclause (1)* prohibits bargaining parties to an occupation-level collective contract from conferring on any person the power to fix 1 or more terms of the collective contract. *Subclause (2)* prohibits any person conferring on any other person the power to impose a penalty in relation to any matter to which this Bill imposes a penalty. Otherwise, the clause provides that if a dispute arises between persons to whom this Bill applies, it is a matter

for them to agree on the processes to settle the dispute. However, if they decide to use 1 or more of the dispute resolution processes available under this Bill, the relevant provisions apply.

Clause 57 authorises the chief executive of the department responsible for the administration of the Bill (currently the Ministry of Business, Innovation, and Employment) to employ or engage persons to provide mediation services to support the resolving of disputes in relation to any matter to which this Bill applies, including breaches of individual contracts (*see clause 19*). If mediation is provided by the chief executive, sections 144 to 154 of the Employment Relations Act 2000 apply with any necessary modifications. If a dispute cannot be resolved by mediation (whether provided through the chief executive or otherwise), the dispute may be resolved by a determination of the Authority or, in certain circumstances, facilitation under *clause 58*).

Clause 58 provides that if the dispute relates to bargaining for a collective contract, facilitation by the Authority is available as a means of supporting parties to reach settlement (unless the dispute is precluding the parties from agreeing 1 or more terms of the collective and concluding the contract, in which case facilitation is a mandatory pre-condition to the Authority settling the matter by final offer arbitration). Facilitation must be carried out as if it were facilitation under the Employment Relations Act 2000, subject to the modifications set out in *clause 58(4)*. If the dispute remains unresolved at the end of facilitation, the parties may apply to the Authority for a determination.

Clause 59 empowers a party to a workplace relationship or a party to collective bargaining to apply to the Authority for a determination of any dispute they may have with any other party to the relationship or bargaining. *Subclause (2)* requires the Authority to determine the dispute as if it were determining a dispute under the Employment Relations Act 2000 unless the Authority is required to use final offer arbitration to determine the dispute, in which case it must use the process set out in *Schedule 4* (*see the discussion above in relation to clause 57*).

Clause 60 empowers any party to a matter before the Authority who is dissatisfied with the Authority's determination of it to elect to have the matter heard by the Employment Court (the **Court**) unless the decision results from final offer arbitration, in which case the only challenge available is judicial review. The Employment Relations Act 2000 applies, with any necessary modifications, to both a hearing by the Court and a judicial review.

Clause 61 provides that section 194 of the Employment Relations Act 2000 applies, with any necessary modifications, in relation to the judicial review of matters relating to the statutory powers and statutory powers of decision conferred on the Authority or the Registrar.

Subpart 2—Penalties and offences

Clause 62 provides the Authority with full and exclusive jurisdiction to deal with all actions for the recovery of penalties for breaches of any provision of the Bill for which a penalty is provided. An action must be brought by way of an application to

the Authority for a determination. *Subclause (3)* sets out an inclusive list of the matters the Authority must have regard to in determining an appropriate penalty. *Subclause (4)* empowers the Authority to order the whole or any part of any penalty recovered to be paid to any person. The Authority's jurisdiction is subject to any referral or removal of certain matters to the Court or any right to have the matter heard by the Court (*see subclause 5*).

Clause 63 sets out who may bring an action to recover a penalty and the maximum penalty amounts, as well as procedural requirements in relation to the action. For an individual, the maximum penalty that may be imposed is \$10,000 and for a body corporate, \$20,000.

Clause 64 provides a penalty for obstructing or delaying an investigation by the Authority.

Clause 65 is an offence provision relating to misleading the Authority (in the exercise of its functions under *subpart 3 of Part 3*) or the Registrar. A person (whether an individual or otherwise) who commits an offence under this section is liable on conviction to a maximum fine of \$5,000.

Part 5

Miscellaneous provisions and amendments to other Acts

Subpart 1—Miscellaneous provisions

Access to workplaces

Clauses 66 to 70 relate to representatives of worker organisations entering a workplace for the purposes set out in *clause 66(1)* as those purposes are further defined in the rest of that clause. Before entering a workplace, *clause 67* requires the representative to obtain the consent of the person in control of the workplace. That person, although able to impose reasonable conditions in relation to the access (under *clause 68*), may refuse consent, or revoke consent only on the limited grounds set out in *clause 67(2) or 69(2)*. An engager must not deduct any amount payable to a screen production worker by the engager if the worker is taking part in a discussion with a representative that is of reasonable duration (*see clause 66(5) and (6)*). *Clause 70* provides penalties in relation to the access to workplace provisions, in relation to both persons in control of a workplace and representatives of worker organisations who enter those workplaces.

Registrar of Screen Industry Organisations

Clauses 71 and 72 relate to matters regarding the new position of Registrar of Screen Industry Organisations. The Registrar has functions under *clauses 21 to 25*.

Secondary legislation

Clause 73 empowers the Governor-General by Order in Council to amend *Schedule 3* to insert or delete categories of screen production workers from that schedule for the

purposes of identifying workers to whom particular occupation-level collective contracts may apply. *Clause 74* provides for matters relating to an order made under *clause 73*.

Clause 75 authorises regulations to be made for the purposes specified in the clause.

Subpart 2—Amendments to Employment Relations Act 2000

Clauses 76 to 79 relate to amendments to the Employment Relations Act 2000. *Clause 77* amends the definition of section 6, which relates to the definition of an employee (specifically to take account of *clause 5* of this Bill). *Clause 78* inserts a *new subsection (4)* into section 161 to signpost the jurisdiction the Authority has under this Bill. *Clause 79* inserts additional wording into section 187(1)(m) to signpost the jurisdiction the Employment Court has under this Bill.

Schedules

Schedule 1 contains a transitional provision (*see* the explanation above at *clause 9*).

Schedule 2 specifies the screen productions the Bill does and does not apply to (*see* the explanation above at *clauses 10 and 12*).

Schedule 3 specifies the occupational groups in relation to which an occupation-level collective contract may apply (*see* the definitions in *clause 10* of occupational group and coverage clause).

Schedule 4 sets out the process that must be used for final offer arbitration (*see* the explanation at *clauses 58 and 59*).

Hon Iain Lees-Galloway

Screen Industry Workers Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Screen Industry Workers Act **2020**.
- 2 Commencement**
This Act comes into force 28 days after the date of Royal assent. 5
- Part 1**
Preliminary provisions
- 3 Purpose**
The purpose of this Act is to provide a workplace relations framework for certain participants in the screen industry. 10
- 4 Overview of Act**
(1) This Act is about the employment status of certain workers in the screen industry. It is also about certain contractors in that industry, their conditions of work, and their ability to bargain collectively. Two types of collective contract may be agreed. They are— 15

-
- (a) occupation-level collective contracts; and
 - (b) enterprise-level collective contracts.
 - (2) It is divided into 5 Parts.
 - (3) This Part (**Part 1**) covers the following preliminary matters:
 - (a) the purpose: 5
 - (b) the screen production workers to whom it applies (by reference to their employment status):
 - (c) the prohibition on contracting out and the disapplying of certain provisions of the Commerce Act 1986 relating to restrictive trade practices:
 - (d) its application to the Crown: 10
 - (e) transitional, savings, and related provisions:
 - (f) definitions of terms used.
 - (4) **Part 2** contains 2 subparts.
 - (5) **Subpart 1** requires parties to a workplace relationship to act in good faith (*see section 13*) and provides protection to screen production workers from undue influence relating to joining or belonging to a worker organisation. 15
 - (6) **Subpart 2** deals with matters relating to screen production workers' individual contracts, including minimum requirements and a prohibition on retaliatory termination motivated by a worker exercising or proposing to exercise any rights conferred by the contract. 20
 - (7) **Part 3** contains 4 subparts.
 - (8) **Subpart 1** sets out the process for a society to register as a worker organisation or an engager organisation. This is a pre-condition to the organisation being able to initiate or participate in collective bargaining or rely on the workplace access provisions in **Part 5**. 25
 - (9) **Subpart 2** contains provisions that apply to occupation-level and enterprise-level collective bargaining.
 - (10) **Subpart 3** deals with matters that apply particularly to bargaining for occupation-level collective contracts. These contracts apply to all screen production workers who do a particular type of work within the screen industry (for example, writers, directors, or production/post-production technicians) and all the entities who engage their services. For the purposes of this subpart, the Employment Relations Authority (the **Authority**) is responsible for deciding whether bargaining may be initiated, who the parties to the bargaining may be, and which worker organisation will conduct the ratification vote. 30
35
 - (11) **Subpart 4** deals with matters that apply particularly to bargaining for enterprise-level collective contracts. These contracts apply to the work specified in the coverage clause of the contract in relation to a particular screen production or a particular entity who engages screen production workers.

- (12) **Part 4** contains 2 subparts.
- (13) **Subpart 1** relates to dispute resolution procedures. The primary problem-solving mechanism is voluntary mediation between parties. However, parties to a dispute may apply to the Authority for facilitation or a binding determination (which the Authority may decline to accept if it considers the dispute is better settled in another manner). The Employment Court has a role in respect of challenges to the decisions of the Authority and judicial review matters. 5
- (14) **Subpart 2** deals with penalties and offences, with the Authority having full and exclusive jurisdiction to deal with all actions for the recovery of penalties for a breach of any provision for which a penalty is provided. The court has jurisdiction in relation to offences against **section 65**. 10
- (15) **Part 5** contains 2 subparts.
- (16) **Subpart 1** deals with miscellaneous provisions relating to the following matters:
- (a) rules for access to workplaces by representatives of worker organisations: 15
 - (b) the Registrar of Screen Industry Organisations, a position established to provide certain administrative functions (for example, the registering of incorporated societies under **section 23** as worker or engager organisations): 20
 - (c) redefining the occupational groups set out in **Schedule 3** by Order in Council (for the purposes of occupation-level collective contracts):
 - (d) matters in relation to which regulations may be prescribed.
- (17) **Subpart 2** contains amendments to the Employment Relations Act 2000. 25
- (18) There are 4 schedules, as follows: 25
- (a) **Schedule 1** provides a transitional provision relating to contracts to which this Act would automatically apply had the contracts been entered into after its commencement:
 - (b) **Schedule 2** specifies the screen productions to which this Act does and does not apply: 30
 - (c) **Schedule 3** sets out the occupational groups in relation to which an occupation-level collective contract may apply:
 - (d) **Schedule 4** sets out the final offer arbitration process, the dispute resolution mechanism the Authority is required to use to fix 1 or more terms of a collective contract if a dispute in relation to those terms is preventing the bargaining parties concluding the contract. 35
- (19) This section is only a guide to the general scheme and effect of the provisions referred to in it.

- 5 Employment status of screen production workers determined by this Act**
- (1) This Act determines the employment status of a person who falls within the meaning of screen production worker in **section 11**.
- (2) If an individual is a screen production worker who is a party to, or covered by, a written employment agreement stating that the person is an employee,— 5
- (a) the agreement is conclusive proof for the purposes of this section that the person is an employee; and
- (b) this Act does not apply to them.
- (3) If an individual is a screen production worker who is not a party to, or covered by, a written employment agreement stating that the person is an employee,— 10
- (a) that is conclusive proof for the purposes of this section that the person is not an employee; and
- (b) this Act applies to them.
- (4) To avoid doubt, no individual who is a screen production worker can invoke section 6(2) of the Employment Relations Act 2000 to determine whether they are an employee. 15
- (5) To avoid doubt, section 6 of the Employment Relations Act 2000 determines the employment status of any other individual who works in the screen industry but who is not a screen production worker within the meaning of **section 11** of this Act. 20
- 6 No contracting out**
- The provisions of this Act have effect despite anything to the contrary in any contract or other agreement.
- 7 Application of Commerce Act 1986**
- Nothing in section 27 or 30 of the Commerce Act 1986 applies to, or in respect of, any matter or thing authorised by this Act. 25
- 8 Act binds the Crown**
- This Act binds the Crown.
- 9 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms. 30
- 10 Interpretation**
- (1) In this Act, unless the context otherwise requires,—
- Authority** means the Employment Relations Authority established under section 156 of the Employment Relations Act 2000 35

bargaining, in relation to bargaining for a collective contract, means all the interactions between the parties to the bargaining that relate to the bargaining, including—

- (a) negotiations that relate to the bargaining; and
- (b) communications or correspondence (between, or on behalf of, the parties before, during, or after negotiations) that relate to the bargaining

chief executive means the chief executive of the department

collective contract—

- (a) means the collection of terms contained in an enterprise-level collective contract or an occupation-level collective contract; and
- (b) includes any variation to the terms of that contract

court means the Employment Court constituted under section 186 of the Employment Relations Act 2000

coverage clause,—

- (a) in relation to an occupation-level collective contract, means the provision in the contract that specifies the occupational group to which the contract applies;
- (b) in relation to an enterprise-level collective contract, means the provision in the contract that specifies the work to which the contract applies

department means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act

engager means a person who engages 1 or more screen production workers (for example, a production company)

engager organisation means an organisation registered under **section 23** as an engager organisation

enterprise-level collective contract means a collective contract, the terms of which apply to the persons specified in **section 54**

individual contract means the contract between a screen production worker and the worker's engager (in relation to the screen production work concerned)

occupation-level collective contract means a collective contract, the terms of which apply to the persons specified in **section 48**

occupational group means a category of screen production worker specified in **Schedule 3**

person in control of the workplace means—

- (a) the person who, at the time at which a request to enter a workplace is made under **section 67**, is in control of the workplace; or
- (b) a representative of that person

Registrar means the Registrar of Screen Industry Organisations appointed under **section 71**

screen production means a record (or any part of it) captured in any medium from which a moving image may be produced for distribution to the public by any means including, without limitation, cinematic exhibition, television broadcast, Internet streaming, or software download 5

screen production worker or **worker** has the meaning given in **section 11**

worker organisation means an organisation registered under **section 23** as a worker organisation

workplace— 10

(a) means—

(i) a place at which a screen production worker works from time to time; and

(ii) a place to which a screen production worker goes to do work; but

(b) for the purposes of **sections 66 to 70**, excludes any building or any part of a building to the extent that it is occupied as a residence and is not being used as a production set 15

workplace relationship means any of the relationships between the following persons:

(a) a screen production worker and the worker's engager: 20

(b) a worker organisation and—

(i) its members who are screen production workers; and

(ii) any other screen production workers to whom a collective contract may apply and for whom the worker organisation is a bargaining party or signatory party (including workers who are members of an organisation referred to in **subparagraph (iii)**); and 25

(iii) any other worker organisation that is bargaining for, or a party to, the same collective contract:

(c) an engager organisation and—

(i) its members who engage screen production workers; and 30

(ii) any other engager to whom a collective contract may apply and for whom the engager organisation is a bargaining party or signatory party (including members of an organisation referred to in **subparagraph (iii)**); and

(iii) any other engager organisation that is bargaining for, or a party to, the same collective contract. 35

(2) **Subsection (3)** applies for the purposes of assisting the interpretation of any provision of this Act that applies 1 or more provisions of the Employment Relations Act 2000 and does so with any necessary modifications.

- (3) Without limiting the ordinary meaning of that term, **necessary modifications** to a provision include the following:
- (a) any reference to an employee must be read as if it were a reference to a screen production worker; and
 - (b) any reference to an employer must be read as if it were a reference to an engager; and 5
 - (c) any reference to any employment agreement must be read as if it were a reference to an individual contract; and
 - (d) any reference to a union must be read as if it were a reference to a worker organisation; and 10
 - (e) any reference to a collective agreement must be read as if it were a reference to a collective contract.

11 Meaning of screen production worker

- (1) In this Act, **screen production worker** or **worker**—
- (a) means an individual— 15
 - (i) who is engaged to contribute to the creation of 1 or more screen productions to which this Act applies (*see section 12*); and
 - (ii) who undertakes the work in New Zealand; but
 - (b) excludes any individual who, in relation to that or those screen productions,— 20
 - (i) only provides support services; or
 - (ii) is a volunteer (as that term is described in section 6(1)(c) of the Employment Relations Act 2000); or
 - (iii) is engaged to do the work by an entity that does not primarily engage in work relating to the creation of screen productions. 25
- (2) In **subsection (1)(b)(i)**, **support services** means accounting, auditing, management, representation, legal, advertising, or similar services that have a contributing value or interest peripheral to the actual creation of the screen production.
- (3) For the purposes of **subsection (1)(b)(iii)**, an entity (whether a company, partnership, individual, or other entity) **does not primarily engage in screen production work** if the entity— 30
- (a) derived less than 50% of its average annual gross income (within the meaning of section BC 2 of the Income Tax Act 2007) from work relating to the creation of screen productions in the previous 3 financial years; and 35
 - (b) is not a special purpose vehicle established within those previous 3 financial years (being an entity established principally for the purpose of creating or contributing to 1 or more screen productions).

12 Screen productions to which Act applies

- (1) This Act applies in respect of the screen productions described in **clause 1 of Schedule 2**.
- (2) This Act does not apply in respect of the screen productions described in **clause 2 of Schedule 2**.

5

Part 2**Workplace relationships and individual contracts****Subpart 1—Workplace relationships****13 Parties to workplace relationship must act in good faith**

- (1) The parties to a workplace relationship must not, whether directly or indirectly,— 10
- (a) do anything to mislead or deceive each other; or
- (b) do anything that is likely to mislead or deceive each other.
- (2) The duties imposed under **subsection (1)** are a complete description of the duty of good faith in relation to workplace relationships for the purposes of this section. 15

14 Person must not exert undue influence on screen production worker

A person must not exert undue influence, directly or indirectly, on any screen production worker with the intention of inducing the worker to—

- (a) form, join, not join, remain a member of, or cease to be a member of a worker organisation; or 20
- (b) participate or not participate in any aspect of collective bargaining under this Act; or
- (c) be covered or not be covered by a collective contract.

15 Penalty for breaching section 13 or 14

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A person who breaches **section 13 or 14** is liable to a penalty under this Act.

Subpart 2—Individual contracts**16 Engager must provide screen production worker with individual contract**

- (1) An individual contract must be in writing.
- (2) An engager must provide a screen production worker with a copy of their individual contract as soon as practicable after the contract is entered into. 30
- (3) The contract must contain the terms specified in **section 17**.

- (4) If the coverage clause of any collective contract covers the work to be done by the worker, or an occupational group to whom the worker belongs, the individual contract—
- (a) must also contain all terms of the collective contract that the collective contract requires be included in the individual contracts of workers; and 5
 - (b) must be deemed to contain every other term of the collective contract that is applicable to the worker and is not otherwise covered by a term of the individual contract to the same effect or to a more favourable effect; and
 - (c) may contain any other terms that the parties agree, except any terms that, individually or in their overall effect, are less favourable to the worker than the terms of the collective contract. 10
- (5) To the extent that the worker’s individual contract breaches **subsection (4)(c)**, the contract is unenforceable.
- 17 Mandatory individual contract terms** 15
- (1) An individual contract must contain a term that provides that both parties to the contract must comply at all times with their respective obligations under the Health and Safety at Work Act 2015 and the Human Rights Act 1993.
 - (2) An individual contract must contain a plain language explanation of the process by which the screen production worker may raise, and the engager respond to, a complaint by the worker about bullying, discrimination, or harassment in the workplace. 20
 - (3) An individual contract must contain a term that sets out—
 - (a) the period of notice (if any) required if either party to the contract terminates the contract; and 25
 - (b) the compensation (if any) payable to a screen production worker if the party who terminates the contract is the worker’s engager.
- 18 Prohibition on retaliatory termination of individual contracts**
- An engager must not terminate a screen production worker’s contract (or give notice to terminate) if the decision to do so is motivated wholly or partly by the exercise or proposed exercise by the worker of any right, power, authority, or remedy conferred on the worker— 30
- (a) by a term of the worker’s individual contract (including, to avoid doubt, any term of a collective contract that is part of that contract under **section 16(4)**); or 35
 - (b) by this Act.

19 Parties may resolve individual contract disputes using dispute resolution procedures

An engager and a screen production worker may resolve any dispute that arises between them that relates to the worker's individual contract by way of the dispute resolution procedures set out in **subpart 1 of Part 4**.

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20 Penalty for failing to comply with individual contract requirements

(1) An engager is liable to a penalty under this Act if the engager does not comply with the requirements of **section 16(1) or (2)**.

(2) An engager is liable to a penalty under this Act if the engager enters into an individual contract with a screen production worker and the contract does not comply with the requirements of **section 16(3), (4)(a), or (4)(c)**.

10

(3) An engager is liable to a penalty under this Act if the engager terminates a screen production worker's contract and is motivated to do so (in whole or in part) for any of the reasons set out in **section 18**.

Part 3

15

Collective bargaining

Subpart 1—Registration as worker organisation or engager organisation

21 Incorporated society may apply to register as worker organisation or engager organisation

(1) An incorporated society may apply to the Registrar to be registered as a worker organisation or an engager organisation provided it is entitled to be registered under **section 22**.

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(2) An application must be made in the prescribed manner (if any) and must be accompanied by—

(a) a copy of the society's certificate of incorporation under the Incorporated Societies Act 1908; and

25

(b) a copy of the society's rules as registered under that Act; and

(c) a statutory declaration made by an officer of the society setting out the reasons why the society is entitled to be registered (in terms of **section 22(1)(a) or (b)**); and

30

(d) the prescribed information (if any).

22 When society entitled to be registered

(1) An incorporated society is entitled to be registered as a worker organisation or an engager organisation if the society—

- (a) is a union that, under the Employment Relations Act 2000 or the Trade Unions Act 1908, is registered and holds a current certificate of registration; or
- (b) meets the requirements in **subsection (2)**.
- (2) The requirements are— 5
- (a) the object or an object of the society is to promote its members' collective work interests; and
- (b) the society's rules are democratic, not unreasonable, not unfairly discriminatory or unfairly prejudicial, and not contrary to law; and
- (c) the society's rules contain a provision relating to the process for holding 10
1 or more secret ballots for the purposes of this Act; and
- (d) the society is independent of, and is constituted and operates at arm's length from,—
- (i) any engager or engager organisation, if the society is seeking to be registered as a worker organisation; and 15
- (ii) any worker organisation, if the society is seeking to be registered as an engager organisation.
- (3) In deciding whether a society is entitled to be registered, the Registrar may rely on the statutory declaration made by its officer under **section 21(2)(c)**.
- 23 Registration** 20
- (1) The Registrar must register an incorporated society as a worker organisation or an engager organisation, as the case may be, and provide it with a certificate of registration in the prescribed form (if any), if the society—
- (a) applies to be registered in accordance with **section 21**; and
- (b) is entitled to be registered under **section 22**. 25
- (2) A certificate of registration is conclusive evidence that—
- (a) the society is registered as a worker organisation or an engager organisation under this Act (on and from the date stated in the certificate); and
- (b) the society has complied with all the requirements of this Act relating to its registration as such an organisation. 30
- (3) The Registrar must—
- (a) keep, in any manner that the Registrar thinks fit, a register of registered organisations for the purposes of this section; and
- (b) maintain a list of worker organisations and engager organisations on the department's Internet site. 35

24 Annual return of members

Each worker organisation or engager organisation must deliver to the Registrar, not later than 1 June in each calendar year, an annual return of members that—

- (a) states how many members it had as at 1 March in that year; and
- (b) includes the prescribed information (if any).

25 Cancellation of registration

- (1) The Registrar may cancel the registration of a worker organisation or an engager organisation, but only if— 5
 - (a) the organisation applies to the Registrar to cancel its registration; or
 - (b) the Authority makes an order directing the Registrar to cancel its registration.
- (2) The Authority may make an order for the purposes of **subsection (1)(b)** only if the organisation has ceased to meet the relevant requirements of **section 22**. 10

Subpart 2—Matters applying to all collective bargaining

26 Collective bargaining to be carried out in good faith

- (1) The parties to collective bargaining must act in good faith during the bargaining process and must (as well as complying with **section 13**) do at least the following: 15
 - (a) as soon as possible after the initiation of bargaining, use their best endeavours to agree a process for conducting the bargaining in an effective and efficient manner (including how they will address any disputes that may arise between them during the bargaining):
 - (b) meet each other from time to time for the purposes of the bargaining: 20
 - (c) consider and respond to proposals made by each other:
 - (d) continue to bargain (including doing the things specified in **paragraphs (b) and (c)**) about any matters on which they have not reached agreement even if they have come to a standstill about 1 or more other matters: 25
 - (e) recognise the role and authority of any person chosen by each to be its representative or advocate:
 - (f) refrain from undermining or doing anything that is likely to undermine the bargaining or the authority of any other party to the bargaining:
 - (g) provide to each other, on request and in accordance with **section 30**, information that is reasonably necessary to support or substantiate claims or responses to claims made for the purposes of the bargaining. 30
- (2) Matters relevant to whether the parties are dealing with each other in good faith in accordance with this section include—
 - (a) the provisions of any agreement about good faith entered into by the parties; and 35
 - (b) background circumstances; and

- (c) the circumstances of the parties, including—
- (i) the operational environment of the parties; and
 - (ii) the resources available to the parties; and
- (d) any developments in the common law relating to the parameters of good faith in collective bargaining under the Employment Relations Act 2000 that are relevant to this Act. 5
- (3) **Subsection (1)(b)** does not require the parties to continue to meet each other about proposals that have been considered and responded to.
- (4) Nothing in this section prevents any engager from—
- (a) communicating with screen production workers during the bargaining (including, without limitation, in relation to the engager’s proposals for the collective contract); or 10
 - (b) continuing to negotiate and form individual contracts with workers during bargaining.
- (5) **Subsection (4)** applies provided the engager’s behaviour is consistent with **subsection (1)(e) and (f)** and any duties imposed on the engager by **sections 13 and 14**. 15
- (6) This section is subject to **section 27**.
- (7) A person is liable for a penalty under this Act if the person breaches any provision of this section. 20
- 27 Bargaining parties required to conclude collective contract**
- The duty to act in good faith in accordance with **section 26** requires the parties bargaining for a collective contract to conclude a collective contract.
- 28 Industrial action prohibited during bargaining**
- (1) Engagers and screen production workers are prohibited, during the bargaining for a collective contract, from taking industrial action, if the action is intended to undermine or affect the outcome of that bargaining (irrespective of whether the engager is a party to, or the worker is represented at, the bargaining). 25
- (2) In this section, **industrial action** means any of the following behaviours:
- (a) 2 or more workers refusing, in a concerted manner, to fulfil 1 or more terms of their individual contracts with their engagers: 30
 - (b) an engager or a person authorised on the engager’s behalf preventing 1 or more workers from carrying out their obligations under their individual contracts (for example, blocking access to a set):
 - (c) an engager refusing to carry out 1 or more obligations under the engager’s individual contracts with 1 or more workers (for example, not paying the workers). 35

- 29 Penalty for engaging in industrial action during bargaining**
A person is liable for a penalty under this Act if the person breaches **section 28(1)**.
- 30 Requests for information during bargaining**
- (1) This section applies for the purposes of **section 26(1)(g)**. 5
- (2) A request for information made by 1 or more parties to another must—
- (a) be in writing; and
- (b) specify the nature of the information requested in sufficient detail to enable the information to be identified; and
- (c) specify the claim or the response to a claim in respect of which information to support or substantiate the claim or the response is requested; and 10
- (d) specify a reasonable time within which the information is to be provided.
- (3) A party must provide the information requested—
- (a) directly to the other party or parties; or
- (b) to an independent reviewer, if the party providing the information reasonably considers that it should be treated as confidential information. 15
- (4) A person must not act as an independent reviewer unless appointed by mutual agreement of the party or parties requesting the information and the party that holds the information. 20
- (5) As soon as practicable after receiving information under **subsection (3)(b)**, an independent reviewer must—
- (a) decide whether and, if so, to what extent the information should be treated as confidential; and
- (b) advise the parties of the decision in a way that maintains the confidentiality of the information. 25
- (6) If an independent reviewer decides that the information should be treated as confidential, the independent reviewer must—
- (a) decide whether and, if so, to what extent the information supports or substantiates the claim or the response to the claim in respect of which the information is requested; and 30
- (b) advise the party that requested the information of the decision in a way that maintains the confidentiality of the information; and
- (c) answer any questions from the party that requested the information in a way that maintains the confidentiality of the information. 35
- (7) Unless the parties otherwise agree, information provided under **subsection (3)** and advice and answers provided under **subsections (5) and (6)**—
- (a) must be used only for the purposes of the bargaining concerned; and

- (b) must be treated as confidential by the parties and any person conducting the bargaining on their behalf; and
- (c) must not be disclosed to anyone else, including any person to whom the collective contract would apply.
- (8) This section does not limit or affect the Privacy Act 1993. 5
- (9) Nothing in the Official Information Act 1982 (except section 6) enables an engager that is subject to that Act to withhold information that is requested under **section 26(1)(g)**.
- 31 Form and content of collective contracts**
- (1) A collective contract must— 10
- (a) be in writing; and
- (b) after ratification, be signed by each bargaining party.
- (2) The contract must contain the terms specified in **section 32**.
- (3) The contract may contain any other terms that the parties agree, except any term that— 15
- (a) is contrary to law; or
- (b) is inconsistent with this Act.
- 32 Mandatory collective contract terms**
- (1) A collective contract must contain a coverage clause.
- (2) A collective contract must contain the following terms for all screen production workers to whom the coverage clause relates: 20
- (a) the rates of pay:
- (b) whether there is a minimum entitlement to breaks and, if so, their frequency, duration, and timing:
- (c) the extent to which, and the manner in which, public holidays are recognised: 25
- (d) the hours of work:
- (e) availability for work:
- (f) the minimum procedural requirements for raising and responding to a complaint relating to bullying, discrimination, or harassment in the workplace: 30
- (g) a termination clause:
- (h) a plain language explanation of the services available for the resolution of any workplace relationship problems.
- (3) A collective contract must also contain the following terms: 35

- (a) the date on which the contract expires or an event on the occurrence of which the contract expires that does not breach the requirements of **section 34**:
- (b) a term providing how the contract may be varied:
- (c) if the contract is an occupation-level collective contract, a term (which must satisfy the requirements of **section 33**) that allows an engager and a worker to enter into an individual contract containing 1 or more terms that are less favourable to the worker than the collective contract (an **exemption provision**). 5
- (4) For the purposes of **subsection (2)(a)**, the contract must contain 1 or more of the following terms: 10
- (a) the rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals):
- (b) the minimum rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals): 15
- (c) 1 or more methods of calculating the rates or minimum rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals). 20
- (5) For the purposes of **subsection (2)(c)**, the contract must specify whether or not workers are expected to work on 1 or more public holidays as defined in section 5(1) of the Holidays Act 2003 and, if so,—
- (a) whether they are entitled to receive additional compensation for working on those days; and 25
- (b) the method or methods of calculating the additional compensation.
- (6) For the purposes of **subsection (2)(d)**, the contract must specify whether or not there is a maximum number of hours workers may be required to work in a given period and, if so,— 30
- (a) whether they are entitled to receive additional compensation for working above the maximum hours; and
- (b) the method or methods of calculating the additional compensation.
- (7) For the purposes of **subsection (2)(e)**, the contract must specify whether or not workers may be required to be available (with no guarantee for work) beyond the contractually agreed hours and, if so,— 35
- (a) the method or methods of calculating additional compensation (if any) for work done during the period of availability; and

- (b) the method or methods of calculating additional compensation (if any) for being available during the period of availability despite doing no work in that period.
- (8) For the purposes of **subsection (2)(g)**, the termination clause must specify—
- (a) the process by which either party to an individual contract may terminate the contract; and 5
- (b) the period of notice (if any) required by either party; and
- (c) the compensation (if any) payable to the worker if the engager terminates the contract.
- 33 Exemptions from occupation-level collective contracts 10**
- (1) An exemption provision term referred to in **section 32(3)(c)** must satisfy all the requirements of this section.
- (2) The exemption provision must state that 1 or more terms less favourable to screen production workers than the terms of the collective contract (**less favourable terms**) are permitted to be included within the workers' individual contracts, but only if— 15
- (a) the terms relate to a particular screen production; and
- (b) otherwise complying with the term or terms of the collective contract would result in significant or unreasonable disruption to the production or a significant or unreasonable increase in its costs; and 20
- (c) the matters in **subsection (5), (6), or (7)** (as the case may be) will be complied with.
- (3) An exemption provision must provide a description of the process to be followed if any party to an individual contract intends to include less favourable terms in the individual contract. 25
- (4) No exemption provision may have the effect of allowing less favourable terms relating to the rates payable under the collective contract in accordance with **section 32(2)(a)**.
- (5) If production is yet to commence, the engager or engagers concerned may enter into 2 or more individual contracts containing less favourable terms if— 30
- (a) the workers who are parties to the individual contracts agree; and
- (b) the signatory parties to the collective contract are notified in writing of—
- (i) the term or terms of the collective contract to which the less favourable terms relate; and 35
- (ii) how the inclusion of the less favourable terms will satisfy the criteria in **subsection (2)(a) and (b)**.
- (6) If production has already commenced, an engager may enter into an individual contract containing less favourable terms if—

- (a) it is the only individual contract relating to that screen production that is entered into that includes less favourable terms; and
 - (b) the worker who is the party to the individual contract agrees; and
 - (c) the signatory parties to the collective contract are notified of—
 - (i) the term or terms of the collective contract to which the less favourable terms relate; and 5
 - (ii) how the inclusion of the less favourable terms will satisfy the criteria in **subsection (2)(a) and (b)**.
- (7) If production has already commenced, the engager or engagers concerned may enter into 2 or more individual contracts containing less favourable terms if— 10
- (a) the workers who are parties to the individual contracts agree; and
 - (b) before agreeing, each worker has been given a reasonable opportunity to seek advice about the consequences of agreeing to the less favourable terms (for example, from a worker organisation of which the worker is a member); and 15
 - (c) the signatory parties to the collective contract are notified of—
 - (i) the number of individual contracts that will contain the less favourable terms; and
 - (ii) the term or terms of the collective contract to which the less favourable terms relate; and 20
 - (iii) how the inclusion of the less favourable terms will satisfy the criteria in **subsection (2)(a) and (b)**.

34 Minimum and maximum duration of collective contracts

- (1) A collective contract is—
- (a) in force, as from its commencement date, for no less than 3 years; and 25
 - (b) expires, no more than 6 years from its commencement date.
- (2) However, a contract that would otherwise expire as provided in **subsection (1)(b)** continues in force, for the period specified in **subsection (3)**, if bargaining for the purpose of replacing the contract has been initiated before the contract expired. 30
- (3) The period is the period (not exceeding 12 months) during which bargaining continues for a collective contract to replace the contract that has expired.
- (4) For the purposes of **subsection (2)**, bargaining is initiated in relation to an occupation-level collective contract on the date that a bargaining party applies to initiate under **section 37**. 35

35 Collective contracts must be sent to chief executive

- (1) The bargaining parties to a collective contract must ensure that, as soon as practicable after the contract is signed a copy of the contract is delivered to the chief executive.
- (2) For each occupation-level collective contract received, the chief executive must— 5
 - (a) give notice in the *Gazette* of the date on which the contract will commence under **section 49** and where a copy of the contract may be obtained; and
 - (b) publish the contract on the department’s Internet site. 10
- (3) For each enterprise-level collective contract received,—
 - (a) the information contained in it must be used for statistical or analytical purposes only; and
 - (b) the Official Information Act 1982 does not apply to it.

Subpart 3—Matters applying to bargaining for occupation-level 15
collective contracts

36 Preliminary requirements

- (1) To participate in bargaining for an occupation-level collective contract under this Act (whether on behalf of screen production workers or engagers), a person must be registered as a worker organisation or an engager organisation in accordance with **subpart 1** of this Part. 20
- (2) However, to initiate bargaining for such a contract, a worker organisation or an engager organisation must also apply to the Authority in accordance with **section 37** and the Authority must decide (under this subpart)—
 - (a) whether to allow bargaining to be initiated; and 25
 - (b) certain matters relating to the conduct of the bargaining.

37 Worker organisation or engager organisation may apply for approval to initiate bargaining

- (1) A worker organisation or an engager organisation may apply to the Authority to initiate bargaining for an occupation-level collective contract. 30
- (2) The application must be made in the prescribed manner (if any) and be accompanied by—
 - (a) a copy of the applicant’s certificate of registration provided under **section 23**; and
 - (b) a copy of a bargaining notice that complies with the requirements of **subsection (3)**; and 35
 - (c) if the applicant is a worker organisation, the following information:

-
- (i) the number of its members who do the work of the occupational group to be specified in the coverage clause of the contract; and
 - (ii) a statement that a simple majority of those members have voted, by secret ballot, for the applicant to initiate collective bargaining; and 5
 - (iii) a statement of how the organisation will conduct a ratification vote that will allow any eligible individual who does the work of the occupational group to be specified in the coverage clause to cast a vote, irrespective of whether the person is a member of the applicant's organisation; and 10
 - (d) if the applicant is an engager organisation, the following information:
 - (i) the number of its members who engage individuals who do the work of the occupational group to be specified in the coverage clause of the contract; and
 - (ii) a statement that a simple majority of those members have voted, by secret ballot, for the applicant to initiate collective bargaining; and 15
 - (iii) a statement as to which worker organisation it considers should conduct the ratification vote; and
 - (e) the prescribed information (if any). 20
 - (3) A bargaining notice must be in writing and identify—
 - (a) the occupational group to be specified in the coverage clause of the contract; and
 - (b) all worker organisations whose members do the work of that occupational group; and 25
 - (c) all engager organisations whose members engage individuals who do the work of that occupational group; and
 - (d) any collective contract that applies to some or all of the screen production workers in the occupational group referred to in **paragraph (a)** or the most recently expired collective contract that applied to some or all of those workers (if any); and 30
 - (e) who will conduct the ratification vote for the purposes of **section 47**, which must be—
 - (i) the applicant, if a worker organisation; or
 - (ii) the worker organisation identified in **subsection (2)(d)(iii)**, if the applicant is an engager organisation. 35
 - (4) An applicant must, at the same time as applying to the Authority, send a copy (including the accompanying material) to the other worker organisations and engager organisations referred to in **subsection (3)(b) and (c)**.
 - (5) This section is subject to **section 38**. 40

38 When application may be made

- (1) If there is no applicable occupation-level collective contract in force or an applicable contract expired more than 2 years previously, a worker organisation may apply to initiate bargaining, and may do so at any time.
- (2) If there is an applicable occupation-level collective contract that expired less than 2 years previously, a worker organisation or an engager organisation may apply to initiate bargaining, and may do so at any time. 5
- (3) If there is an applicable occupation-level collective contract in force,—
 - (a) a worker organisation may apply to initiate bargaining no earlier than 180 days before the date on which the contract expires; and 10
 - (b) an engager organisation may apply to initiate bargaining no earlier than 160 days before the date on which the contract expires.
- (4) To avoid doubt, these are the only circumstances in which a worker organisation or an engager organisation may apply to the Authority for approval to initiate bargaining for an occupation-level collective contract. 15
- (5) In this section, **applicable occupation-level collective contract** means an occupation-level collective contract that applies to the occupational group identified in a bargaining notice in accordance with **section 37(3)(a)**.

39 Applications to be notified and submissions invited

- (1) The Authority must, as soon as is reasonably practicable, give notice on its Internet site of any application to initiate bargaining received under **section 37**. 20
- (2) The notice must—
 - (a) include a copy of the bargaining notice referred to in **section 37(3)**; and 25
 - (b) invite submissions from any person; and
 - (c) state the date by which submissions must be received (being no earlier than 28 days after the date on which the Authority gives the notice); and
 - (d) state the manner in which submissions must be given (which may include by prescribed form); and 30
 - (e) state any minimum requirements that submissions must comply with (which may, if prescribed, be different requirements for different categories of person); and
 - (f) give the contact details of the Authority.
- (3) The Authority may, if it considers it appropriate and in any manner it sees fit, extend the time within which submissions may be made. 35

40 Authority must decide whether to allow bargaining

- (1) Once the submission period has closed, the Authority must decide whether to allow collective bargaining to be initiated.
- (2) The Authority must approve an application if it is satisfied that there is sufficient support to do so. 5
- (3) In this section, **sufficient support** means,—
 - (a) if the applicant is a worker organisation, that the Authority is satisfied (having regard to the application and any submissions it has received that comply with the requirements of **section 39**) there are, in total, more individuals who do the work of the occupational group to be specified in the coverage clause of the contract who want to bargain than who do not; and 10
 - (b) if the applicant is an engager organisation, that the Authority is satisfied (having regard to the application and any submissions it has received that comply with the requirements of **section 39**) there are more engagers who engage individuals who do the work of the occupational group to be specified in the coverage clause of the contract who want to bargain than who do not. 15
- (4) For the purposes of determining the total number of individuals referred to in **subsection (3)(a)**, the number of members of any relevant worker organisation is the total number of members of the organisation who do the work of the occupational group to be specified in the coverage clause of the contract. 20
- (5) For the purposes of determining the total number of engagers referred to in **subsection (3)(b)**, the number of members of any relevant engager organisation is the total number of members of the organisation who engage screen production workers who do the work of the occupational group to be specified in the coverage clause of the contract. 25

41 Bargaining parties

- (1) This section applies if the Authority approves an application to initiate collective bargaining under **section 40**. 30
- (2) The following organisations are deemed to be bargaining parties, unless **subsection (3)** applies:
 - (a) all worker organisations who have members who do the work of the occupational group to be specified in the coverage clause of the contract; and 35
 - (b) all engager organisations whose members engage individuals who do the work of the occupational group to be specified in the coverage clause of the contract.

- (3) The Authority may excuse an organisation specified in **subsection (2)** from being a bargaining party, but only if the Authority is satisfied that, in excusing the organisation, the result would be other than—
- (a) a substantial number or distinct class of screen production workers or engagers not having their interests adequately represented during the bargaining process; or 5
 - (b) the number of members of the excused organisation affected by the bargaining (because their work falls within the intended coverage clause) being greater than the number of affected members of all other organisations on the same side of the bargaining. 10
- (4) In making a decision under **subsection (3)**, the Authority—
- (a) must have regard to any submissions received that comply with the requirements of **section 39**; and
 - (b) may consider any other information or matter that, in its opinion, is relevant; and 15
 - (c) may consider any other information from any worker organisation or engager organisation deemed to be a bargaining party.
- (5) An organisation that wishes to be excused from participating in the bargaining process must apply in writing to the Authority for permission.
- (6) To avoid doubt, the application of the collective contract to any screen production worker who does the work of the occupational group to be specified in the coverage clause of the contract, or any engager who engages such a worker, is not affected by an organisation being excused from participating in the bargaining, even if the worker or engager is a member of the excused organisation. 20
- 42 Authority to decide worker organisation responsible for ratification vote** 25
- (1) This section applies if the Authority approves an application to initiate collective bargaining under **section 40**.
- (2) The Authority must decide which worker organisation will conduct the ratification vote, if it is not satisfied that the applicant worker organisation or the worker organisation nominated by the applicant engager organisation (as the case may be) consents and has the ability to conduct the ratification vote in the manner referred to in **subsection (3)(d)(ii)**. 30
- (3) Before deciding, the Authority—
- (a) must have regard to any submissions received that comply with the requirements of **section 39**; and 35
 - (b) may consider any other information or matter that, in its opinion, is relevant; and
 - (c) may consider any other information from any other worker organisation or engager organisation deemed to be a bargaining party; and

- (d) must be satisfied that—
 - (i) the organisation it is intending to confer the duty upon agrees to conduct the ratification vote; and
 - (ii) the organisation has the ability to conduct the ratification vote in a manner that will allow any eligible individual who does the work of the occupational group to be specified in the coverage clause to cast a vote, irrespective of whether the person is a member of that organisation. 5

43 Authority must publish decisions on applications

- (1) The Authority must publish all its decisions made under **section 40** on applications to initiate bargaining for an occupation-level collective contract on its Internet site (and, for successful applications, its decisions made under **sections 41 and 42**). 10
- (2) Decisions in relation to successful applications must include—
 - (a) the occupational group to be specified in the coverage clause of the contract; and 15
 - (b) the bargaining parties to the contract; and
 - (c) the worker organisation that will conduct the ratification vote and the process that it will use; and
 - (d) any occupation-level collective contract that currently applies to some or all of the screen production workers in that occupational group or the most recently expired collective contract that applied to some or all of those workers. 20

44 Removal of bargaining party

- (1) The Authority may remove a worker organisation or an engager organisation as a bargaining party for an occupation-level collective contract, but only if— 25
 - (a) the organisation applies to the Authority to be removed; or
 - (b) the organisation's registration has been cancelled under **section 25**; or
 - (c) the organisation was identified as a party as a result of providing false or misleading information to the Authority; or 30
 - (d) the Authority is satisfied that the organisation no longer has any members to whom the contract would apply.
- (2) For the purposes of deciding whether to remove an organisation under **subsection (1)(a), section 41(3) and (4)** applies with any necessary modification. 35
- (3) To avoid doubt, the application of the collective contract to any screen production worker who does the work of the occupational group to be specified in the coverage clause of the contract, or engager who engages such a worker, is not affected by an organisation being removed from participating in the bargaining,

even if the worker or engager is a member of the removed organisation (as the case may be).

45 How bargaining for occupation-level collective contract initiated (once approval given)

- (1) Bargaining for an occupation-level collective contract must be initiated by the worker organisation or engager organisation that applied under **section 37(1)** to initiate bargaining. 5
- (2) Bargaining must be initiated by that organisation giving a bargaining notice to each bargaining party specified in **section 43(2)(b)** on or before the expiry of the 30th day from the date on which the Authority publishes its decision under section **43** to allow the bargaining. 10
- (3) The bargaining notice must include the information published by the Authority under **section 43(2)**.
- (4) If the organisation fails to comply with **subsection (2)**, bargaining for the collective contract is automatically initiated on the day after the date referred to in **subsection (2)**, in accordance with the terms of the Authority's decision published under **section 43**. 15

46 Authority must assess draft occupation-level collective contracts for suitability for ratification

- (1) This section applies once the parties to occupation-level collective bargaining have agreed the terms they wish to put forward for ratification. 20
- (2) The party who initiated the bargaining must submit the draft contract to the Authority for assessment as to its suitability for ratification.
- (3) The Authority must approve or not approve the draft contract as suitable for ratification. 25
- (4) The Authority must approve the draft if satisfied that it complies with **section 31(1)(a), (2), and (3)**.
- (5) If the Authority does not approve the draft,—
 - (a) it must give the bargaining parties its reasons (by reference to the relevant matters in **subsection (4)**); and 30
 - (b) the parties may revise the draft and resubmit it for approval.
- (6) The process in **subsection (5)** may be repeated 1 or more times.

47 Ratification of occupation-level collective contract

- (1) This section applies if the Authority has approved under **section 46** a draft occupation-level collective contract as suitable for ratification. 35
- (2) Before any worker organisation that is a bargaining party signs the contract, it must be ratified by the screen production workers who do the work of the occupational group specified in the coverage clause of the contract.

- (3) For that purpose, the worker organisation responsible for conducting the ratification vote must give notice of the following matters:
- (a) that the Authority has approved the draft contract to proceed to a ratification vote; and
 - (b) the details of the ratification process published under **section 43(2)(c)**, including—
 - (i) who is eligible to vote; and
 - (ii) the final date by which votes must be cast; and
 - (iii) the method by which votes may be cast.
- (4) Notice must be given on an Internet site to which the public has free access and in the prescribed manner (if any). 10
- (5) For the purposes of **subsection (3)(b)(i)**, a person is **eligible to vote** if, at any time in the relevant period, the person is or has been a party to a contract with an engager in respect of work on a screen production and the work is or was that done by the occupational group specified in the coverage clause of the contract. 15
- (6) For the purposes of **subsection (3)(b)(ii)**,—
- (a) the **final date by which votes must be cast** must be no earlier than 14 days from the date on which voting begins; and
 - (b) voting may begin no earlier than the date on which notice of the ratification vote is given under **subsection (3)**. 20
- (7) In **subsection (5)**, **relevant period** means the period starting 3 years prior to the public notice of application (*see section 39*) and ending on the date that voting on ratification closes.
- (8) The occupation-level collective contract is ratified if a simple majority of eligible voters vote in favour of ratification. 25

48 Coverage of occupation-level collective contract

The terms of an occupation-level collective contract apply to—

- (a) every screen production worker who does the work of the occupational group specified in the coverage clause of the collective contract; and 30
- (b) every engager who engages a screen production worker to do that work; and
- (c) every worker organisation that is a signatory party to the collective contract; and
- (d) every engager organisation that is a signatory party to the collective contract. 35

49 Commencement of occupation-level collective contract

- (1) An occupation-level collective contract comes into force on the date that is 6 months from the date on which the notice is gazetted by the chief executive in accordance with **section 35(2)(a)**.
- (2) The terms in the collective contract apply to a screen production worker's individual contract on and from that same date unless **subsection (3)** applies. 5
- (3) The terms in the collective contract apply to the worker's individual contract on and from the date that is 1 year from the date on which the chief executive gives notice of the contract if—
 - (a) the engager and the individual entered into the individual contract before the collective contract was gazetted by the chief executive; and 10
 - (b) the individual contract is still in force at that date.

Subpart 4—Matters applying to bargaining for enterprise-level collective contracts

50 Who may participate in bargaining for enterprise-level collective contract 15

- (1) The bargaining parties for an enterprise-level collective contract may only be—
 - (a) 1 or more worker organisations; and
 - (b) 1 or more engagers.
- (2) To avoid doubt, if 1 or more engagers use an engager organisation to act as their agent in the bargaining, each engager is still a party to the contract (and not the engager organisation). 20

51 How and when bargaining may be initiated

- (1) A worker organisation or an engager may initiate bargaining for an enterprise-level collective contract by giving to all the other bargaining parties a bargaining notice in writing that states— 25
 - (a) the intended coverage of the contract; and
 - (b) the time period within which the parties served with the notice may respond in writing to the notice.
- (2) Bargaining is initiated only if all parties that receive the bargaining notice consent in writing within the stipulated time period. 30
- (3) Each worker organisation must notify each of the other bargaining parties of its ratification procedure when bargaining is initiated.

52 Limits on bargaining

The bargaining parties for an enterprise-level collective contract must not agree to any terms that, individually or in their overall effect, would be less favourable to the screen production workers to whom the contract is intended to apply 35

than any occupation-level collective contract that would also apply to those workers (once the enterprise-level collective contract came into force).

53 Ratification of enterprise-level collective contract

- (1) Before a worker organisation that is a bargaining party to an enterprise-level collective contract signs the collective contract, it must be ratified by the organisation's members who are screen production workers and who do the work specified in the coverage clause of the contract. 5
- (2) This section does not apply if the bargaining relates to a screen production for which the engager or engagers have not yet engaged any workers to whom the contract would apply. 10

54 Coverage of enterprise-level collective contract

- (1) The terms of an enterprise-level collective contract apply to—
- (a) every worker organisation that is a signatory party to the contract; and
 - (b) every engager that is a signatory party to the contract; and
 - (c) every screen production worker— 15
 - (i) who is a member of a worker organisation that is a signatory party to the contract (whether at the time the organisation signs the contract or at any later date); and
 - (ii) who does the work specified in the coverage clause of the contract for an engager that is a signatory party to the contract. 20
- (2) The terms of an enterprise-level collective contract also apply to every screen production worker who does the work specified in the coverage clause of the contract but who is not a member of any signatory worker organisation (a **non-member worker**), but only if—
- (a) the enterprise-level collective contract provides for extension of the coverage of the collective contract to non-member workers; and 25
 - (b) a term is included in the contract that sets out—
 - (i) how the contract will apply to non-member workers who consent to being covered; and
 - (ii) how a non-member worker gives consent; and 30
 - (c) the non-member provides consent in accordance with that term.

55 Commencement of enterprise-level collective contract

- (1) An enterprise-level collective contract comes into force on the date on which the bargaining parties sign the contract.
- (2) The terms in the contract apply to a screen production worker's individual contract on and from that date unless the parties to the collective contract agree to a later date, which must not be later than 6 months from the date the collective contract is signed. 35

- (3) The terms in the contract apply to a non-member worker on and from the later of—
- (a) the applicable date referred to in **subsection (2)**; and
 - (b) the date on which the non-member worker consents to being covered in accordance with **section 54(2)(c)**.

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Part 4

Dispute resolution, challenges, reviews, penalties, and offences

Subpart 1—Dispute resolution, challenges, and reviews

56 General matters relating to dispute resolution

- (1) The bargaining parties to an occupation-level collective contract may not confer on any person the power to fix 1 or more terms of the collective contract. 10
- (2) No person to whom this Act applies may confer on any other person the power to impose a penalty in relation to any matter to which this Act imposes a penalty.
- (3) Subject to **subsections (1) and (2)**, if a dispute arises between persons to whom this Act applies, it is a matter for those persons to agree on the processes to settle the dispute, which may include agreeing to give another person decision-making powers about the dispute. 15
- (4) However, if those persons do decide to use 1 or more of the dispute resolution processes available under this Act, the relevant provisions of this Act apply. 20

57 Mediation of disputes relating to matters under this Act

- (1) The chief executive must employ or engage persons to provide mediation services to support the resolving of disputes in relation to any matter to which this Act applies.
- (2) If mediation is provided by the chief executive, sections 144 to 154 of the Employment Relations Act 2000 apply with any necessary modifications. 25
- (3) Nothing in this section prevents any person from seeking and using mediation services other than those provided by the chief executive.
- (4) If a dispute that arises between parties to a workplace relationship or collective bargaining cannot be resolved by mediation (whether provided by the chief executive or privately arranged), it may be resolved by a determination of the Authority made under **section 59**. 30
- (5) **Subsection (4)** is subject to **section 58**.

58 Facilitated bargaining

- (1) Before seeking a determination, the bargaining parties to a collective contract may attempt facilitation (with a member of the Authority as the facilitator) to resolve a dispute relating to the bargaining.
- (2) The Authority may accept a reference for facilitation from any party, or 2 or more parties, to bargaining if the Authority is satisfied that—
- (a) the dispute is interfering with the bargaining or the ability of the parties to conclude a collective contract; and
 - (b) the parties have made sufficient efforts at mediation to resolve their difficulties.
- (3) However, if the bargaining parties have complied with their obligations under section 26 and yet remain at a standstill in relation to 1 or more terms, the effect being that bargaining is prevented from being completed (and a collective contract concluded), the parties must attempt facilitation (with a member of the Authority as the facilitator) before the Authority may make a determination in relation to those terms by final offer arbitration (*see section 59(3)*).
- (4) The Authority must carry out any facilitation under this section as if it were a facilitation under the Employment Relations Act 2000, subject to the modifications to the provisions of that Act specified in the following paragraphs:
- (a) sections 50A, 50B, 50C(1) and (2), and 50J do not apply; and
 - (b) sections 50C(3), 50D to 50G, and 50I apply with any necessary modifications; and
 - (c) section 50H applies, except that the Authority must make 1 or more recommendations on the matters referred to in subsection (1)(a) and (b) of that section; and
 - (d) the Authority may refer the parties to the facilitation back to mediation if it considers that further mediation would be beneficial to resolving the dispute concerned.
- (5) If the dispute remains unresolved at the end of facilitation, the parties may apply to the Authority for a determination.

59 Determinations by Authority

- (1) A party to a workplace relationship or a party to collective bargaining may apply to the Authority for a determination on any dispute between the party and any other party to the relationship or collective bargaining.
- (2) The Authority must determine the dispute as if it were determining a dispute under the Employment Relations Act 2000, and, for that purpose,—
- (a) section 159 of that Act applies; and
 - (b) sections 159A to 178 of that Act apply with any necessary modifications.

- (3) Despite **subsection (2)**, the Authority must use final offer arbitration to determine the dispute if—
- (a) the dispute relates to bargaining for a collective contract; and
 - (b) the bargaining falls within the circumstances described in **section 58(3)**; and
 - (c) the Authority is satisfied that the parties have made sufficient efforts to resolve the dispute through mediation and facilitation.
- (4) The process that must be used for final offer arbitration is set out in **Schedule 4**.
- (5) However, the bargaining parties may agree to settle the dispute and conclude the collective contract in a different manner to that set out in **Schedule 4** at any point before the arbitrating body fixes the terms in dispute (provided in the case of bargaining related to an occupation-level collective contract, the prohibition in **section 56(1)** is not breached).
- (6) All applications for a determination, including those referred to in **subsection (3)**, are to be commenced by the lodging of an application in the prescribed form (if any).
- (7) The Authority has exclusive jurisdiction to make determinations for the purposes of this section.
- 60 Challenges to determinations**
- (1) A party to a matter before the Authority who is dissatisfied with the Authority's determination of it may elect to have the matter heard by the court, unless **subsection (3)** applies.
- (2) For the purposes of a hearing authorised under **subsection (1)**, the Employment Relations Act 2000 applies subject to the modifications to the provisions of that Act specified in the following paragraphs:
- (a) sections 178A, 179, and 180 to 222F apply with any necessary modifications;
 - (b) sections 179A to 179C do not apply.
- (3) A party to a final offer arbitration determination of the Authority may only challenge the decision by way of judicial review under section 194 of the Employment Relations Act 2000, and that section applies with any necessary modification.
- 61 Review of Authority and Registrar decisions**
- Section 194 of the Employment Relations Act 2000 applies, with any necessary modifications, to the exercise, refusal to exercise, or proposed or purported exercise by the Authority or the Registrar of a statutory power or statutory power of decision (as those terms are defined by section 4 of the Judicial Review Procedure Act 2016) conferred by or under this Act.

Subpart 2—Penalties and offences

62 Jurisdiction concerning penalties

- (1) The Authority has full and exclusive jurisdiction to deal with all actions for the recovery of penalties for a breach of any provision of this Act for which a penalty is provided. 5
- (2) An action must be brought by way of an application to the Authority for a determination.
- (3) In determining an appropriate penalty for a breach, the Authority must have regard to all relevant matters, including— 10
- (a) the purpose of this Act; and
 - (b) the nature and extent of the breach or involvement in the breach; and
 - (c) whether the breach was intentional, inadvertent, or negligent; and
 - (d) the nature and extent of any loss or damage suffered by any person, or gains made or losses avoided by the person in breach or the person involved in the breach, because of the breach or involvement in the breach; and 15
 - (e) whether the person in breach or the person involved in the breach has paid an amount of compensation, reparation, or restitution, or has taken other steps to avoid or mitigate any actual or potential adverse effects of the breach; and 20
 - (f) the circumstances in which the breach, or involvement in the breach, took place, including the vulnerability of any screen production worker concerned; and
 - (g) whether the person in breach or the person involved in the breach has previously been found by the Authority or the court in proceedings under this Act, or any other enactment, to have engaged in any similar conduct. 25
- (4) The Authority may order that the whole or any part of any penalty recovered must be paid to any person.
- (5) **Subsection (1)** is subject to— 30
- (a) any determination made by the Authority under **section 59** to which section 177 or 178 of the Employment Relations Act 2000 applies (which allow for the referral or removal of certain matters to the court); and
 - (b) any right to have the matter heard by the court under **section 60**. 35

63 Recovery of penalties

- (1) This section applies for the purposes of the Authority making a determination under **section 62**.

- (2) An action for the recovery of a penalty may be brought—
- (a) in the case of a breach of an individual contract, by any party to the contract who is affected by the breach:
 - (b) in the case of a breach during bargaining for a collective contract, by any party to the bargaining who is affected by the breach: 5
 - (c) in the case of a breach of a collective contract, by any signatory party to the contract who is affected by the breach:
 - (d) in any other case, by any person in relation to whom the breach is alleged to have taken place.
- (3) A person who is liable to a penalty under this Act is liable,— 10
- (a) in the case of an individual, to a penalty not exceeding \$10,000:
 - (b) in the case of a body corporate, to a penalty not exceeding \$20,000.
- (4) A claim for 2 or more penalties against the same person may be joined in the same action.
- (5) In any claim for a penalty, the Authority may give judgment for the total amount claimed, or any amount, not exceeding the maximum specified in **subsection (3)**, or the Authority may dismiss the action. 15
- (6) The Authority may order payment of a penalty by instalments, but only if the financial position of the person paying the penalty requires it.
- (7) An action for the recovery of a penalty under this Act must be commenced within 12 months after the earlier of the following: 20
- (a) the date on which the cause of action first became known to the person bringing the action:
 - (b) the date on which the cause of action should reasonably have become known to the person bringing the action. 25

64 Penalty for obstructing or delaying Authority investigation

- (1) A person is liable to a penalty under this Act who, without sufficient cause, obstructs or delays an Authority investigation, including failing to attend as a party before an Authority investigation (if required).
- (2) The power to award a penalty under **subsection (1)** may be exercised by the Authority— 30
- (a) of its own motion; or
 - (b) on the application of any party to the investigation.

65 Offence to mislead Authority or Registrar

- (1) A person commits an offence if the person does or says anything, or omits to do or say anything, with the intention of misleading or attempting to mislead— 35
- (a) the Registrar: or

- (b) the Authority, in the exercise of its functions under **subpart 3 of Part 3**.
- (2) A person who commits an offence under this section is liable on conviction by the court to a fine not exceeding \$5,000.

Part 5

5

Miscellaneous provisions and amendments to other Acts

Subpart 1—Miscellaneous provisions

Access to workplaces

66 Access to workplaces

- (1) A representative of a worker organisation is entitled to enter a workplace for 1 or more of the following purposes: 10
- (a) purposes related to the work of—
- (i) the organisation’s members who are screen production workers; or
- (ii) any other screen production worker to whom a collective contract that the organisation is bargaining for may apply; or 15
- (iii) any other screen production worker to whom a collective contract that the organisation is a signatory party to applies:
- (b) purposes related to the health and safety of any screen production worker at that workplace who is not a member of the worker organisation if the worker has asked for the organisation’s assistance in relation to the matter: 20
- (c) purposes related to the worker organisation’s business.
- (2) Entitlement to access is subject to the representative—
- (a) requesting consent to enter the workplace under **section 67(1)**; and
- (b) satisfying the requirements of **sections 68 and 69**. 25
- (3) A purpose is within the scope of **subsection (1)(a)** if it relates to 1 or more of the following:
- (a) participation in bargaining for a collective contract:
- (b) dealing with matters concerning the health and safety of the workers:
- (c) monitoring compliance with the operation of a collective contract: 30
- (d) monitoring compliance with this Act:
- (e) with the consent of a worker, dealing with matters relating to that worker’s individual contract, proposed individual contract, terms and conditions of work, or proposed terms and conditions of work.

- (4) A purpose is within the scope of **subsection (1)(c)** if it relates to 1 or more of the following:
- (a) discussing the organisation’s business with its members:
 - (b) seeking to recruit screen production workers as members of the organisation: 5
 - (c) providing information about the organisation and its membership to any screen production worker at the workplace.
- (5) A discussion in a workplace between a screen production worker and a representative under this section must not exceed a reasonable duration.
- (6) An engager must not deduct any amount payable to a worker by the engager in respect of the time the worker is taking part in a discussion referred to in **subsection (5)**. 10
- 67 Representative of worker organisation must obtain consent to enter workplace**
- (1) Before entering a workplace, a representative of a worker organisation entitled to enter in accordance with **section 66** must request the consent of the person in control of the workplace. 15
- (2) The person in control may refuse consent only if—
- (a) the person reasonably believes the representative does not satisfy the criteria for access under **section 66(1)**; or 20
 - (b) the entry would unreasonably impede screen production activities to the extent that the entry would prevent production or require it to be temporarily discontinued (for example, if sensitive material is being produced and access to the workplace might require the shooting of a particular scene to be stopped in order to protect the material). 25
- (3) The person in control must advise the representative of the person’s decision, including any reasonable conditions imposed on the entry in accordance with **section 68(2)**, as soon as is reasonably practicable, but no later than the day after the date on which the request is received (and must give reasons in writing if the person refuses consent). 30
- (4) The person in control may revoke consent to enter the workplace if—
- (a) there is a change in circumstances and entry to the workplace or any part of the workplace might unreasonably impede screen production activities in the manner described in **subsection (2)(b)**; or
 - (b) the representative is no longer entitled to enter the workplace because the purpose entitling the representative to access under **section 66(1)** no longer applies; or 35
 - (c) the representative does not comply with any reasonable conditions imposed on the entry under **section 68(2)**.

- (5) If consent is revoked, the person in control must give the representative written reasons for the revocation no later than the day after the date on which consent is revoked.

68 Conditions relating to access

- (1) A representative of a worker organisation entitled to enter a workplace may do so if the representative believes, on reasonable grounds,— 5
- (a) that a screen production worker referred to in **section 66(1)(a) or (b)** is working or normally works at the workplace; or
 - (b) that the entry is related to the organisation’s business.
- (2) A representative must comply with any reasonable condition of entry that the person in control of the workplace may impose in relation to 1 or more of the following purposes: 10
- (a) minimising disruption to screen production activity:
 - (b) protecting commercially sensitive or confidential information:
 - (c) managing risks to the health and safety of any person at the workplace: 15
 - (d) maintaining security.

69 Additional requirements relating to access

- (1) A representative of a worker organisation entitled to enter a workplace must, at the time of the initial entry and, if requested by the person in control of the workplace, at any time after entering the workplace,— 20
- (a) state the purpose of the entry (in terms of **section 66(1)**); and
 - (b) produce evidence of consent to entry; and
 - (c) produce evidence of the representative’s identity and authority to represent the worker organisation concerned.
- (2) A representative who fails to produce any information required under **subsection (1)** may be refused access. 25
- (3) If a representative with consent to enter a workplace is unable, despite reasonable efforts, to find, at the time of entering the workplace, the person in control, the representative must leave in a prominent place at the workplace a written statement of— 30
- (a) the representative’s identity; and
 - (b) the worker organisation represented; and
 - (c) the date and time of entry; and
 - (d) the purpose or purposes of entry (in terms of **section 66**).

70 Penalty for certain acts in relation to entering workplace 35

- (1) A person in control of a workplace is liable to a penalty under this Act if the person,—

- (a) without lawful excuse under **section 67(2)**, refuses consent for access to a workplace by a representative of a worker organisation; or
 - (b) without lawful excuse under **section 67(4)**, revokes consent for access to a workplace by a representative of a worker organisation; or
 - (c) imposes conditions on access to a workplace other than in accordance with **section 68(2)**; or 5
 - (d) without lawful excuse, otherwise obstructs a representative of a worker organisation entitled to enter a workplace from entering the workplace or doing anything reasonably necessary for or incidental to the purpose for entering. 10
- (2) A representative of a worker organisation is liable to a penalty under this Act if the representative—
- (a) wilfully enters a workplace in breach of **section 68(1)**; or
 - (b) having lawfully entered a workplace under **section 68(1)**, wilfully fails to comply with any reasonable condition of entry imposed under **section 68(2)**; or 15
 - (c) wilfully fails to comply with **section 69(1) or (3)**.

Registrar of Screen Industry Organisations

71 Registrar of Screen Industry Organisations

- (1) The chief executive— 20
 - (a) must appoint a Registrar of Screen Industry Organisations; and
 - (b) may appoint a Deputy Registrar of Screen Industry Organisations.
- (2) The Registrar and Deputy Registrar may be employees of the department and may hold any other office or position in the department.
- (3) Subject to the control and direction of the Registrar, the Deputy has, and may exercise or perform, all the powers, duties, and functions of the Registrar. 25

72 Registrar may seek directions of Authority

- (1) The Registrar may apply to the Authority for directions relating to the exercise or performance of the Registrar's powers, duties, and functions under this Act.
- (2) An application must be served on all persons who, in the Registrar's opinion, are interested in the application. 30

Secondary legislation

73 Occupational groups

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 3**. 35

- (2) An order may insert in or delete from **Schedule 3** categories of screen production workers as occupational groups for the purposes of identifying those screen production workers to whom occupation-level collective contracts may apply.
- (3) If an order has the effect of deleting an occupational group that comprises screen workers to whom an existing occupation-level collective contract applies, the order must provide that it comes into force on a date that is after the date on which the existing contract expires. 5
- (4) Before recommending the making of an order, the Minister must consult (or be satisfied that the chief executive has consulted on the Minister's behalf) persons that appear to the Minister or the chief executive likely to have an interest in the order. 10
- (5) In this section, **Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act. 15

74 Further matters relating to change in occupational groups

- (1) This section applies if an order in council made under **section 73** creates a new occupational group in **Schedule 3**.
- (2) Bargaining for and ratification of an occupation-level collective contract in relation to the new occupational group may be carried out (in accordance with **subpart 3 of Part 3**) at any time after the order comes into force. 20
- (3) **Subsection (4)** applies to a screen production worker who is covered by an occupation-level collective contract (the **current contract**) but who, once any collective contract referred to in **subsection (2)** comes into force, will be covered by that contract (the **new collective contract**). 25
- (4) The new collective contract is deemed to apply to the worker from the date on which the new collective contract comes into force, irrespective of whether—
- (a) the current contract is still in force; and
 - (b) the terms of the new contract are less favourable to the worker than those of the current contract. 30

75 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:
- (a) prescribing the manner in which applications under **sections 21(2) and 37(2)** must be made: 35
 - (b) prescribing a certificate of registration for the purposes of **section 23(1)**;
 - (c) prescribing documentation or information for the purposes of **sections 21(2)(d), 24(b), and 37(2)(e)**:

- (d) prescribing, for the purposes of **section 39**,—
- (i) the form in which submissions must be given; and
 - (ii) the minimum requirements as to the content of submissions (which may be different requirements for different categories of person); and
- (e) prescribing how notice must be given under **section 47(4)**; and
- (f) prescribing the form for applications for a determination under **section 59(6)**; and
- (g) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) Regulations made for the purposes of **subsection (1)(d)(ii)** may only require information that is necessary for the Authority to make a decision under **section 40**.
- Subpart 2—Amendments to Employment Relations Act 2000
- 76 Amendments to Employment Relations Act 2000** 15
- This subpart amends the Employment Relations Act 2000.
- 77 Section 6 amended (Meaning of employee)**
- (1) Repeal section 6(1)(d) and (1A).
 - (2) After section 6(4), insert:
 - (4A) Nothing in this section applies to determine the employment status of a person who falls within the meaning of screen production worker in **section 11 of the Screen Industry Workers Act 2020**.
 - (3) Repeal section 6(7).
- 78 Section 161 amended (Jurisdiction)**
- After section 161(3), insert:
- (4) The Authority has jurisdiction to exercise the functions and powers conferred on it by the **Screen Industry Workers Act 2020**.
- 79 Section 187 amended (Jurisdiction of court)**
- In section 187(1)(m), after “any other Act”, insert “including the **Screen Industry Workers Act 2020**”.

Schedule 1
Transitional, savings, and related provisions

s 9

Part 1

Provision relating to this Act as enacted

5

1 Contracts entered into before commencement of Act

- (1) This clause applies to a contract entered into between persons who are a screen production worker and an engager (as those terms are defined in this Act) before the commencement of this Act (the **pre-commencement contract**).
- (2) The terms and conditions of the pre-commencement contract apply for the period that is 12 months from the commencement of this Act, as if this Act had not been enacted. 10
- (3) At the end of the 12-month period,—
- (a) the contract must be treated on and from that date as if it were an individual contract within the meaning of **section 10** of this Act; and 15
- (b) the terms and conditions of the contract must be varied (if necessary) to comply with the requirements of this Act no later than the day on which the 12-month period ends.
- (4) **Subclauses (2) and (3)** apply to a pre-commencement contract unless the contract satisfies the following criteria (in which case **subclause (5)** applies): 20
- (a) the screen production worker is a writer as described in **Schedule 3** of this Act; and
- (b) the contract was entered into more than 5 years before the commencement of this Act; and
- (c) the contract includes terms or conditions concerning intellectual property rights between the writer and the engager in relation to a screen production. 25
- (5) **Subclauses (2) and (3)** apply to the contract except that the requirement in **section 16(3)** of this Act never applies to the contract.
- (6) The rest of this Act applies to all pre-commencement contracts from the date on which the Act comes into force (for example, the parties may use the dispute resolution provisions of the Act to resolve any issues that arise). 30

Schedule 2

Screen productions to which Act applies

s 12

1 Screen productions to which Act applies

- (1) This Act applies to the following screen productions: 5
- (a) computer-generated games:
 - (b) films:
 - (c) programmes.
- (2) Despite **subclause (1)**, this Act does not apply to any screen production of a kind described in **clause 2**. 10

2 Screen productions to which Act does not apply

This Act does not apply to the following screen productions:

- (a) advertising programmes that are longer than 5 minutes in duration:
- (b) amateur productions:
- (c) computer-generated games for educational, training, and advertising purposes: 15
- (d) game show programmes:
- (e) live event programmes:
- (f) music and dance programmes:
- (g) news and current affairs programmes: 20
- (h) recreation and leisure programmes:
- (i) religious programmes:
- (j) sports programmes:
- (k) talk show programmes:
- (l) training and instructional programmes: 25
- (m) variety show programmes.

3 Interpretation

In this Act, unless the context otherwise requires,—

advertising programme has the meaning set out in section 2(1) of the Broadcasting Act 1989 30

amateur production—

- (a) means a screen production—
 - (i) in which screen production workers take part for their own enjoyment; and

- (ii) that is conducted for the recreation or entertainment of the general public or a select group of people; and
- (iii) from which the workers do not derive an income; and
- (b) includes productions that meet the requirements of **paragraph (a)** made in the course of education and training 5
- computer-generated game** means a screen production that is a game generated by a computer, where the way in which the game proceeds depends on the decisions, inputs, and direct involvement of the player
- film** means a screen production that is a motion picture (for example, a feature film or a documentary film) 10
- game show programme—**
- (a) means a programme that features a game of skill or chance or a quiz that offers winning participants a prize; but
- (b) does not include a programme that is a reality show in which the overarching narrative or story is a game in which participants compete against each other over more than 1 episode to win a title or prize 15
- live event programme—**
- (a) means a programme in which more than 50% of the content comprises 1 or more live events; and
- (b) includes a recording of live theatre or award shows; but 20
- (c) does not include a programme that is recorded in front of a live audience, if the presence of the live audience is incidental to the recording of the programme
- music and dance programme—**
- (a) means a programme in which more than 50% of the content comprises 1 or more live or prerecorded performances of music or dance (for example, recordings of opera, operetta, ballet, and musicals); but 25
- (b) does not include a music or dance programme that is a reality show in which participants compete against each other over more than 1 episode to win a title or prize 30
- news and current affairs programme—**
- (a) means a programme that reports on or analyses local, national, or international events; and
- (b) includes discussion and panel programmes in relation to such events
- programme—** 35
- (a) means a screen production, other than a film or a computer-generated game, that is a programme as defined in section 2(1) of the Broadcasting Act 1989; and
- (b) to avoid doubt, includes—

- (i) a programme that consists of a single episode or a season or series of episodes:
 - (ii) an advertising programme:
 - (iii) an election programme as defined in section 69(1) of the Broadcasting Act 1989 5
- recreation and leisure programme** means a programme that presents information on—
- (a) recreation, hobby, or skill development:
 - (b) recreational sports and outdoor activities:
 - (c) travel and leisure: 10
 - (d) employment opportunities
- religious programme** means a programme in which more than 50% of the content comprises religious teachings
- sports programme** means a programme that comprises—
- (a) a live or pre-recorded sports event or competition: 15
 - (b) review and analysis of 1 or more sports events or teams (for example, a sporting news and panel show)
- talk show programme**—
- (a) means a programme in which more than 50% of the content comprises a host or hosts discussing a topic or a variety of topics; and 20
 - (b) includes such a programme that features—
 - (i) a guest or guests who appear with the host or hosts:
 - (ii) musical performances, games, or cooking segments
- training and instructional programme** means a programme that is intended to be viewed primarily for the purpose of the viewer acquiring or developing a skill or knowledge 25
- variety show programme** means a programme—
- (a) in which more than 50% of the content is of a mixed character (for example, not exclusively musical or comedic performances); and
 - (b) that comprises a number of individual acts (for example, singing, dancing, acrobatic exhibitions, comedy sketches, monologues, or magical tricks). 30

Schedule 3

Occupational groups

ss 10, 73

Occupational group	Description
Composer	individuals who create or modify musical compositions for screen productions
Director	individuals who direct the making of screen productions by visualising scripts while guiding performers and technicians to capture a screen production's vision
Game developer	individuals who create and manipulate computer animation, audio, video, and graphic image files into multimedia programmes to produce data and content for games
Performer	individuals who portray roles in screen productions, including stunt persons, narrators, voice-over actors, extras, singers, musicians, and dancers
Technician (post-production)	individuals who work on, or contribute to, screen productions during the post-production phase, and who do not fall within the description of any other occupational group in this schedule
Technician (production)	individuals who work on, or contribute to, screen productions before the post-production phase, and who do not fall within the description of any other occupational group in this schedule
Writer	individuals who write, edit, contribute to, and evaluate scripts and stories for screen productions

Schedule 4

Final offer arbitration for fixing terms of collective contract

s 59(4)

- 1 Parties** 5
- The parties to an arbitration must consist of—
- (a) 1 worker organisation or more than 1 worker organisation acting jointly (the **worker party**); and
 - (b) 1 engager or 1 engager organisation, or more than 1 engager organisation acting jointly (the **engager party**).
- 2 Arbitrating body** 10
- (1) The arbitrating body is a panel of the Authority appointed from time to time under this clause.
 - (2) The arbitrating body must consist of 1 member of the Authority appointed by the Chief of the Authority.
 - (3) However, the arbitrating body must include additional members, if nominated in accordance with the following rules: 15
 - (a) 1 or 2 members to be nominated by the worker party:
 - (b) 1 or 2 members to be nominated by the engager party:
 - (c) the number of members nominated under **paragraph (a)** must be the same as the number nominated under **paragraph (b)**. 20
 - (4) The arbitrating body must be chaired by the individual appointed under **subclause (2)**.
 - (5) An individual appointed under **subclause (3)** who is not a member of the Authority has and enjoys, in the performance of the person's duties under this Act, the same protection as a member of the Authority under section 176 of the Employment Relations Act 2000. 25
- 3 Statement as to state of negotiations**
- The worker party and the engager party must each provide the arbitrating body with a signed statement as to—
- (a) the issues in dispute; and 30
 - (b) the position on those issues of the party providing the statement; and
 - (c) full particulars of the final offer being made by the party providing the statement.
- 4 Copies of statement**
- When the arbitrating body has received both of the statements required under **clause 3**, it must supply— 35

- (a) a copy of the engager party's statement to the worker party; and
- (b) a copy of the worker party's statement to the engager party.

5 Hearing and determination of dispute

- (1) The arbitrating body, after giving the parties an opportunity to be heard, must, in accordance with the provisions of this schedule, hear and determine the dispute and fix the terms of the collective contract. 5
- (2) The arbitrating body must, at the conclusion of the hearing and before making its determination, give each of the parties the opportunity to restate in writing, within a specified time or before a specified date, its final offer.
- (3) If a party restates its final offer, the offer as restated is that party's final offer for the purposes of **clause 8**. 10

6 Mandatory criteria for arbitrating body

The arbitrating body, in hearing and determining a dispute in relation to a proposed collective contract, must have regard to—

- (a) screen industry practices and norms, including the evolution and development of screen industry practices and norms; and 15
- (b) the impact of the terms offered on current and potential screen production activity during the term of the contract; and
- (c) the impact of the terms offered on current and potential screen production workers during the proposed term of the contract; and 20
- (d) the terms that the parties have agreed; and
- (e) relativities within the proposed contract, and between the proposed contract and other collective contracts; and
- (f) the nature of working relationships covered by this Act; and
- (g) any relevant information provided by parties. 25

7 Application of criteria

In applying the criteria, the arbitrating body is not bound by historical precedent and practice of any sort.

8 Duty of arbitrating body to accept one final offer

- (1) In fixing the terms of the collective contract, the arbitrating body must accept in full either the final offer presented by the worker party or the final offer presented by the engager party. 30
- (2) The decision of the arbitrating body must be decided by majority vote if the body comprises 3 or more members.
- (3) One of the voters in the majority must be the chair. 35

9 Power of arbitrating body to waive technical irregularities

The arbitrating body, in its discretion, may waive any technical irregularity or omission that may have occurred in the submission or reference of a dispute to the arbitrating body, if it is satisfied that the provisions of this Act, including this schedule, have been substantially complied with.

5