



ANALYSIS

Title	11. New Part VIII A inserted
1. Short Title and commencement	
2. Interpretation	PART VIII A
3. Conditions of employment which may be prescribed	STATE ENTERPRISES
4. Objectives relating to prescribing of conditions of employment	75A. Method of prescribing conditions of employment
5. Criteria relating to pay scales for occupational classes	75AA. Registration of agreements under Labour Relations Act 1987
6. General considerations applying in respect of pay scales	75B. Procedure in relation to disputes and personal grievances
7. Conditions of employment for enterprise units	75C. Transitional provision
8. Power to make determinations	12. Service organisations
9. Individual contracts of service	13. New Zealand Railways Corporation
10. Exclusion of enterprise units	14. Repeal

1987, No. 123

**An Act to amend the State Services Conditions of
Employment Act 1977** [1 July 1987

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the State Services Conditions of Employment Amendment Act (No. 3) 1987, and shall be read together with and deemed part of the State Services Conditions of Employment Act 1977 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of August 1987.

2. Interpretation—(1) Section 2 (1) of the principal Act (as substituted by section 2 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1987) is hereby amended

by inserting, after the definition of the term “employing authority”, the following definition:

“‘Enterprise unit’ means a class or group of employees determined by the employing authority, with the agreement of the appropriate service organisation, to be an enterprise unit, whether or not there is any similarity between the respective duties of the employees in that class or group:”.

(2) Section 2 (1) of the principal Act (as so substituted) is hereby further amended by repealing the definition of the term “remuneration”, and substituting the following definitions:

“‘Ranges of rates of remuneration’ means a remuneration structure that—

“(a) Fixes an upper limit and a lower limit of remuneration; and

“(b) Is not confined to fixed salary levels or incremental steps within those limits; and

“(c) Allows the employing authority to decide from time to time, within those limits, the actual remuneration that, subject to any other conditions of employment, is to be paid to the holder of a position or to any particular holder of a position:

“‘Remuneration’ includes salary, wages, and other payments (whether in the form of bonuses or otherwise) in return for services:”.

3. Conditions of employment which may be prescribed—(1) Section 7 (1) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Rates of remuneration, including ranges of rates of remuneration, and other rewards in return for services, to reflect—

“(i) The standards of performance of employees, or of the branch of the State services or any part thereof; or

“(ii) The levels of skill or experience of employees; or

“(iii) Specific recruitment or retention considerations; or

“(iv) The location of the position:”

(2) Section 7 of the principal Act is hereby amended by adding, after subsection (1A) (as inserted by section 29 (4) of the

Foreign Affairs and Overseas Service Act 1983), the following subsection:

“(1B) A determination may include provision for—

“(a) Ranges of rates of remuneration; or

“(b) Remuneration other than salary or wages,—
as provided for in subsection (1) (b) of this section, only with the agreement of the appropriate service organisation.”

4. Objectives relating to prescribing of conditions of employment—Section 9 of the principal Act (as substituted by section 5 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) In applying subsection (1) of this section to the prescribing of rates of remuneration (including ranges of rates of remuneration) or other rewards in return for services, every employing authority shall, in addition to the obligations placed on it by that subsection, aim to set for each occupational class or enterprise unit, such rates of remuneration (including a pay scale) and such other rewards (if any) in return for services as—

“(a) Will enable the State services to recruit and retain an efficient staff; and

“(b) Will take account of special responsibilities or conditions applying to employment in the occupational class or the enterprise unit; and

“(c) Will be fair to the tax-paying public and to employees in the State services.”

5. Criteria relating to pay scales for occupational classes—Section 10 of the principal Act (as substituted by section 5 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985) is hereby amended by adding the following subsection:

“(4) Nothing in this section shall apply to the prescribing of a pay scale of employees who belong to an enterprise unit.”

6. General considerations applying in respect of pay scales—Section 12 of the principal Act (as enacted by section 5 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985) is hereby amended by adding, as subsection (2), the following subsection:

“(2) Nothing in paragraphs (e) to (k) of subsection (1) of this section shall apply to the prescribing of a pay scale of employees who belong to an enterprise unit.”

7. Conditions of employment for enterprise units—

The principal Act is hereby amended by inserting, after section 12 (as enacted by section 5 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985), the following section:

“12A. The exclusion of the application of certain provisions of this Act to enterprise units—

“(a) Shall not limit in any way the matters or criteria that an employing authority may take into consideration in prescribing the conditions of employment of employees who belong to enterprise units; and

“(b) Shall not prevent the inclusion within a determination covering employees of an enterprise unit of any provisions whatsoever that the employing authority considers appropriate relating to conditions of employment.”

8. Power to make determinations—(1) The principal Act is hereby amended by repealing section 18 (as amended by section 16 (1) of the State Services Conditions of Employment Amendment Act 1987), and substituting the following section:

“18. (1) Each employing authority shall have power to make determinations in respect of the branch of the State services under the jurisdiction of that employing authority, which power includes the power to make determinations in respect of occupational classes and enterprise units within that branch.

“(2) Where a determination has been made in respect of the conditions of employment of employees who belong to an enterprise unit, that determination shall take precedence over all other determinations (whether made before or after the making of that determination) that but for the existence of the enterprise unit would otherwise have applied to any employee or class or group of employees included in the enterprise unit.”

(2) The State Services Conditions of Employment Amendment Act 1987 is hereby consequentially amended by repealing so much of the Second Schedule as relates to section 18 of the principal Act.

9. Individual contracts of service—Part I of the principal Act is hereby amended by inserting, after section 21 (as substituted by section 7 of the State Services Conditions of Employment Amendment Act 1983), the following section:

“21A. (1) The employing authority in respect of any branch of the State services (other than the Armed Forces) may engage any person as an employee of that branch under an individual contract of service.

“(2) The power conferred by subsection (1) of this section may be exercised only where—

“(a) The employee is required to provide specialist advice to the branch of the State services and an employee with the necessary skills or knowledge is not normally available within the branch of the State services; or

“(b) The employee is required to provide specialist advice to the branch of the State services and the task in respect of which the employee is required to provide specialist advice is a short-term temporary task; or

“(c) It is agreed between the employing authority and the appropriate service organisation that the employee is to be employed under this section.

“(3) The employing authority shall, before engaging any person under subsection (1) of this section, in reliance on subsection (2) (a) or subsection (2) (b) of this section, consult with the appropriate service organisation or service organisations, either generally or in each particular case.

“(4) Persons engaged under subsection (1) of this section shall be engaged for such terms, and on such terms and conditions of service, as the employing authority decides.

“(5) This section shall have effect notwithstanding anything in this Act requiring the conditions of employment of employees of the State services to be prescribed by determination under this Act.”

10. Exclusion of enterprise units—Part III of the principal Act is hereby amended by inserting, after section 33 (as substituted by section 8 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985), the following section:

“33A. Nothing in this Part of this Act applies in relation to enterprise units.”

11. New Part VIIIA inserted—(1) The principal Act is hereby amended by inserting, after Part VIII, the following Part:

“PART VIIIA**“STATE ENTERPRISES**

“75A. Method of prescribing conditions of employment—(1) The conditions of employment of employees employed by a State enterprise shall be fixed by an agreement registered under Part VII of the Labour Relations Act 1987.

“(2) For the purposes of subsection (1) of this section, sections 163 to 184 of the Labour Relations Act 1987 shall apply, with all necessary modifications, as if—

“(a) Every reference in those sections to a union were a reference to a service organisation; and

“(b) Every reference in those sections to a worker were a reference to an employee; and

“(c) Every reference in those sections to an employer were a reference to an employing authority.

“(3) Nothing in sections 6 to 12, 14, 18, 20, 21, 22 to 26, and 30 to 32 of this Act shall apply in respect of State enterprises or employees of State enterprises.

“(4) Before entering into an agreement under Part VII of the Labour Relations Act 1987, a State enterprise shall consult with the State Services Commission over the conditions of employment to be included in the agreement.

“(5) A Board of a State enterprise shall, in its capacity as employing authority, seek to negotiate, in respect of its employees, conditions of employment that will enable the State enterprise—

“(a) To compete effectively for the employees that it requires in order to achieve its principal objective in terms of section 4 of the State-Owned Enterprises Act 1986; or

“(b) In the case of the Government Life Insurance Corporation, to perform its functions as set out in section 20 of the Government Life Insurance Corporation Act 1987; or

“(c) In the case of the New Zealand Railways Corporation, to perform its functions as set out in section 12 of the New Zealand Railways Corporation Act 1981.

“(6) Without limiting the generality of subsection (5) of this section, the Board of a State enterprise in negotiating conditions of employment, shall have regard to the following matters:

- “(a) The cost of providing the conditions of employment:
- “(b) The need to be fair to its employees:
- “(c) The need to reflect differences in market conditions, in individual performance, skill, and experience, and in organisational requirements.

“**75AA. Registration of agreements under Labour Relations Act 1987**—For the purposes of sections 164 (6) (a) and 166 (6) (a) of the Labour Relations Act 1987, every service organisation shall be deemed to have the right to represent the employees of the State enterprise in respect of which the service organisation is recognised under this Act; and any agreement arrived at by the service organisation in respect of those employees may be registered under section 164 (5) or section 166 (5) of the Labour Relations Act 1987, as the case may require.

“**75B. Procedure in relation to disputes and personal grievances**—Parts VIII and IX of the Labour Relations Act 1987 shall, to the extent that those Parts apply to agreements (as defined in section 2 of that Act), apply, with all necessary modifications, in respect of each State enterprise as if—

- “(a) Every reference therein to a union were a reference to a service organisation; and
- “(b) Every reference therein to a worker were a reference to an employee; and
- “(c) Every reference therein to an employer were a reference to an employing authority.

“**75C. Transitional provision**—Every determination made under this Act, so far as that determination was subsisting or in force immediately before the commencement of this Part of this Act and related to the conditions of employment of employees of a State enterprise, shall continue in force, except so far as other provision is duly made under this Act fixing the conditions of employment to which that determination relates, and shall have effect as if it were an agreement registered under Part VII of the Labour Relations Act 1987.”

(2) The State Services Conditions of Employment Amendment Act 1987 is hereby amended by repealing sections 5 to 10, and 15.

(3) Section 12 (3) of the State Services Conditions of Employment Amendment Act 1987 is hereby amended by omitting the words “in subsections (2) and (3) of section 7 of this Act”, and substituting the words “in subsections (5) and (6) of section 75A of the principal Act”.

12. Service organisations—(1) The State Services Conditions of Employment Amendment Act 1987 is hereby amended by inserting, after section 4, the following section:

“4A. The Minister of State Services may recognise as service organisations different organisations for different groups of employees of a State enterprise.”

(2) Section 4 (2) of the State Services Conditions of Employment Amendment Act 1987 is hereby consequentially repealed.

13. New Zealand Railways Corporation—The First Schedule to the State Services Conditions of Employment Amendment Act 1987 is hereby amended by inserting, in its appropriate alphabetical order, the following item:

“New Zealand Railways Corporation”.

14. Repeal—The State Services Conditions of Employment Amendment Act 1987 is hereby amended by repealing section 24.

This Act is administered in the State Services Commission.
