

APPRENTICES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Apprentices Act 1948.

Clause 2 substitutes a new definition of the term "employer". The term will include a person who intends to employ a worker as well as a person who actually employs a worker.

Clause 3 makes provision for specifying localities in respect of which local Committees will be appointed. Specification will be by notice in the *Gazette*.

Clause 4 provides for membership of Apprenticeship Committees. New Zealand Committees will have five members representing employers and five representing workers. Only four of each group however will be able to attend meetings. The quorum for these Committees has been raised from five to six.

Clause 5 clarifies a provision in the principal Act relating to appeals. The effect of the amendment will be that where the decision of a Committee acting under a delegation from the Arbitration Court is to cancel a contract of apprenticeship, the appeal will be to a Magistrate in the same way as an appeal from a decision discharging an apprentice. At present there is a doubt as to whether the appeal is to the Arbitration Court or to a Magistrate.

Clause 6: This clause rewrites certain provisions relating to the registration of contracts of apprenticeship. Changes effected are:

- (a) It is made clear that the District Commissioner effects registration:
- (b) The period during which an alteration to a contract is required to be registered is made the same as that in which an original contract is required to be registered:
- (c) The penalty for breach of the section is increased from £10 to £20.

Clause 7 inserts a new provision relating to the termination of contracts of apprenticeship. The clause provides for a period of 28 days to pass before the termination becomes effective. The agreement to terminate may itself be terminated before the period ends. The purpose of the clause is to permit negotiation to take place in cases where hasty decisions may have been made. A new provision provides a penalty for demanding or accepting payment or other consideration to terminate a contract.

Clause 8 repeats with modifications the proviso to section 24 (3) of the principal Act. The new provision makes it clear that where a contract is modified by a Court order, any party to the contract may apply to the Court for a modification of the order so far as it affects the contract.

Clause 9: The effect of the amendments proposed by this clause is that where persons over 18 years of age wish to enter into a special contract of apprenticeship, the proposed contract will be transmitted to the Court together with the recommendation of the local Committee or the District Commissioner. The decision as to whether or not the contract is to be permitted will be solely that of the Court.

Clause 10 corrects an omission in the principal Act and includes a reference to a local Committee as an authority which may grant a transfer.

Clause 11 extends, from seven days to 14 days, the period during which an appeal will lie from a decision discharging or suspending an apprentice and also gives a right of appeal to the parent or guardian of the apprentice.

Clause 12 clarifies the provisions of the principal Act relating to penalties and also increases certain penalties for breaches of the Act.

Hon. Mr Shand

APPRENTICES AMENDMENT

ANALYSIS

Title	7. Termination of contracts of apprenticeship
1. Short Title	8. Modification of orders affecting contracts
2. Interpretation	9. Adult apprentices
3. Localities of local Committees	10. Transfer of apprentices
4. Membership of Committees	11. Suspension and discharge of apprentices
5. Appeals from decisions of Committee	12. Penalties
6. Conditions relating to apprenticeship contracts	

A BILL INTITULED

An Act to amend the Apprentices Act 1948

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Apprentices Amendment Act 1961, and shall be read together with and deemed part of the Apprentices Act 1948 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definition of the term “employer” in subsection (1), and substituting the following definition:
“ ‘Employer’ means a person employing or intending to employ one or more workers:”.

3. Localities of local Committees—Section 7 of the principal Act is hereby amended by adding the following subsection:

“(3) The Governor-General may from time to time, by notice in the *Gazette*, specify localities for the purposes of this section, and reference to any such notice in any agreement for the appointment of a local Committee or in any other document shall be a sufficient definition in that document of the locality to which the notice relates.” 5

4. Membership of Committees—(1) Section 8 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections: 10

“(2) Every New Zealand Committee shall consist of the chairman and eleven other members, of whom five shall be representatives of employers, five shall be representatives of workers, and one shall be a person conversant with technical education: 15

“Provided that not more than four representatives of the employers nor more than four representatives of the workers shall attend any meeting of any such Committee. 20

“(2A) Every local Committee shall consist of the chairman and seven other members, of whom three shall be representatives of the employers, three shall be representatives of the workers, and one shall be a person conversant with technical education.” 25

(2) Section 8 of the principal Act is hereby further amended by repealing subsection (5), and substituting the following subsection:

“(5) At any meeting of a New Zealand Committee six members shall form a quorum and at any meeting of a local Committee five members shall form a quorum.” 30

(3) All persons who are members of a New Zealand Committee at the commencement of this section shall, unless they sooner vacate their office, continue in office for the residue of the term for which they were appointed. Appointments of additional members of a New Zealand Committee sufficient to increase the membership of the Committee to eleven may be made at any time after the passing of this Act and before the commencement of this section, but no member so appointed shall come into office until the date of the commencement of this section. 35 40

(4) This section shall come into force on the first day of July, nineteen hundred and sixty-two.

5 **5. Appeals from decisions of Committee**—Section 14 of the principal Act is hereby amended by adding to subsection (4) the following proviso:

“Provided that where the decision of the Committee is to cancel a contract of apprenticeship, the appeal shall be made and determined under section 38 of this Act and the provisions of that section shall apply accordingly.”

10 **6. Conditions relating to apprenticeship contracts**—(1) Section 20 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

15 “(2) Every contract of apprenticeship, or alteration thereof, to which this Act applies shall be in writing, signed by the employer and the apprentice and, if the apprentice is under the age of twenty-one years, by the parent or guardian (if any) of the apprentice, or, if not made in writing, shall be forthwith reduced to writing signed as aforesaid.

20 “(3) The parties to any contract of apprenticeship to which this Act applies shall, within twenty-eight days after the commencement of the employment of the apprentice or the making of an alteration, as the case may be, submit the contract or alteration to the District Commissioner for the 25 locality concerned for registration. If the contract or alteration is not submitted for registration within the prescribed time the parties thereto shall be severally liable to a penalty not exceeding twenty pounds.

30 “(3A) No contract of apprenticeship, or alteration thereof, to which this Act applies shall have any validity until it has been consented to as provided by section 19 of this Act and has been duly registered:

35 “Provided that any registered contract shall operate from the date of the commencement of the employment of the apprentice or, as the case may be, from the date of validation specified by the Court under subsection (3) of section 19 of this Act.”

40 (2) Section 20 of the principal Act is hereby further amended by repealing subsection (8), and substituting the following subsection:

“(8) The termination of a contract of apprenticeship before the expiry of the period of probation prescribed by the contract, or the termination thereof by discharge of the apprentice for good cause, shall be notified to the District Commissioner by the employer within twenty-eight days after any such termination.” 5

7. Termination of contracts of apprenticeship—The principal Act is hereby amended by inserting, after section 20, the following section:

“20A. (1) Subject to the provisions of this section, the parties to a contract of apprenticeship may at any time during its currency agree to its termination. 10

“(2) Every agreement to terminate a contract of apprenticeship shall be notified to the District Commissioner forthwith after its making. 15

“(3) No such agreement shall operate to terminate a contract of apprenticeship until the twenty-eighth day after the date of its notification under subsection (2) of this section.

“(4) Any such agreement may be cancelled by agreement of the parties thereto at any time before the date of the commencement of its operation and any such cancellation shall be notified to the District Commissioner. 20

“(5) Between the day of the making of any such agreement and the twenty-eighth day after its notification under this section, or, as the case may be, the transfer of the apprentice or the cancellation of the agreement before the aforesaid twenty-eighth day, the parties to the contract of apprenticeship shall have no obligations thereunder. 25

“(6) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of this Act in respect of the cancellation of contracts of apprenticeship during the period of probation or in respect of the transfer of apprentices. 30

“(7) Any party to a contract of apprenticeship commits a breach of this Act who stipulates for or demands or accepts for himself or any other person any payment or other like consideration for terminating or agreeing to terminate the contract.” 35

8. Modification of orders affecting contracts—(1) Section 24 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection: 40

“(3A) Any party to any contract of apprenticeship affected by an apprenticeship order pursuant to any of the foregoing provisions of this section may at any time apply to the Court for a modification of the apprenticeship order so far as it affects the contract of apprenticeship, and the Court may make such modification of the order in relation to that contract as it thinks fit, or may exclude that contract from the operation of the order.”

10 (2) Section 24 of the principal Act is hereby further amended by repealing the proviso to subsection (3).

9. Adult apprentices—(1) Section 25 of the principal Act is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

15 “(1) If any person who has attained the age of eighteen years desires to enter into a special contract of apprenticeship as an apprentice, the proposed contract shall be considered by the appropriate local Committee, or, if there is no such Committee, by the District Commissioner, and shall be forwarded, together with any recommendations of the Committee or 20 District Commissioner thereon, to the Commissioner for transmission to the Court for its consent.

“ (2) The Court, after considering any recommendations of the Committee or the District Commissioner, and after hearing representations of any person or any organisation of 25 employers or of workers interested in the matter which it may think fit to hear, may, in its discretion, grant or refuse its consent to the contract of apprenticeship, and the decision of the Court shall be final and conclusive.”

30 (2) Section 19 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

“Provided that where the contract is a special contract of apprenticeship to which section 25 of this Act applies, the contract shall be consented to by the Court under that section, and no other consent shall be required.”

35 **10. Transfer of apprentices**—Section 27 of the principal Act is hereby amended by omitting from subsection (4) the words “from the granting of a transfer by the District Commissioner”, and substituting the words “from the granting of a transfer by the local Committee or the District Com- 40 missioner, as the case may be”.

11. Suspension and discharge of apprentices—(1) Section 38 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) Any party to the contract of apprenticeship may, within fourteen days after he has been notified by the Committee or the District Commissioner of the decision to grant or refuse leave to discharge the apprentice, appeal in the prescribed manner to a Magistrate exercising civil jurisdiction in the Magistrate’s Court nearest to the place where the apprentice is employed.”

(2) Section 38 of the principal Act is hereby further amended by omitting from subsection (12) the words “the apprentice, within seven days after the discharge or within ten days after the suspension, as the case may be”, and substituting the words “the apprentice or his parent or guardian (if any), within fourteen days after the discharge or suspension”.

12. Penalties—(1) Section 42 of the principal Act is hereby amended by repealing the proviso to subsection (4), and substituting the following proviso:

“Provided that nothing in that Act limiting the time within which proceedings may be commenced shall apply in respect of proceedings taken under this section.”

(2) Section 42 of the principal Act is hereby further amended by repealing subsection (6), and substituting the following subsection:

“(6) Every employer who commits a breach of this Act for which no specific penalty is elsewhere provided shall be liable to a penalty not exceeding fifty pounds in respect of each breach, and every other person who commits a breach of this Act for which no specific penalty is elsewhere provided shall be liable to a penalty not exceeding ten pounds in respect of each breach:

“Provided that if the breach is a continuing one, every employer shall be liable to a further penalty not exceeding ten pounds, and every other person to a further penalty not exceeding one pound, for every day on which the breach has continued after the first day.”

(3) Section 42 of the principal Act is hereby further amended by omitting from subsection (7) the word “fine”, and substituting the word “penalty”.