

[AS REPORTED FROM THE LABOUR AND EDUCATION COMMITTEE]

House of Representatives, 4 August 1983

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Mr Bolger

APPRENTICESHIP

ANALYSIS

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No. 140—2

Price \$2.55

A BILL INTITULED

An Act to reform the law relating to apprenticeship

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

5

1. Short Title and commencement—(1) This Act may be cited as the Apprenticeship Act 1982.

(2) This Act shall come into force on the 1st day of October 1983.

2. Interpretation—In this Act, unless the context otherwise 10 requires—

“Apprentice” means any person employed under an agreement for apprenticeship under **section 9** of this Act, or under a contract:

“Apprenticeship order” means an order under **section 30** 15 of this Act, and includes any amendment made to it and any matters included in it pursuant to this Act or any other enactment:

“Assessed training capacity”, in relation to any employer, means the training capacity for the time being assessed 20 under this Act for that employer:

“Award” means an award of the Court under the Industrial Relations Act 1973, a collective agreement registered under that Act, or an agreement filed under section 141 of that Act: 25

“Commissioner” means the Commissioner of Apprenticeship appointed under **section 40 (1)** of this Act:

“Contract” means a contract of apprenticeship registered under this Act:

“Court” means the Arbitration Court established under 30 the Industrial Relations Act 1973:

“Department” means the Department of Labour:

“District” means an area in respect of which a District Commissioner is for the time being appointed; and, in relation to any District Commissioner, means that 35 District Commissioner’s District or Districts:

“District Commissioner” means a District Commissioner of Apprenticeship appointed under **section 42 (1)** of this Act:

“Employer” means a person who employs or intends to 40 employ any apprentice:

- “Employer member”, in relation to any New Zealand committee or local committee, means a member of that committee appointed on the nomination of one or more organisations of employers:
- 5 “Industry” includes a group of industries and any branch of any industry:
- “Inspector” means an Inspector of Factories under the Factories and Commercial Premises Act 1981:
- 10 “Local committee” means an apprenticeship committee appointed under **section 31** of this Act in respect of a specified locality:
- “New Zealand committee” means an apprenticeship committee appointed under **section 24** of this Act in respect of the whole of New Zealand:
- 15 “Relevant industry” means an industry for which there exists any apprenticeship order:
- “Secretary” means the Secretary of Labour:
- “Training capacity”, in relation to any employer, means the maximum number of apprentices that employer is capable of training effectively at the same time while employed by that employer:
- 20 “Worker member”, in relation to any New Zealand committee or local committee, means a member of that committee appointed on the nomination of one or more organisations of workers:
- 25

New

- 30 “Working day”, in relation to a matter concerning any apprentice, means a day on which both the establishment in which that apprentice is for the time being (or was last) employed and the appropriate district office of the Department are open.

3. Apprenticeship—For the purposes of this Act, the characteristic features of apprenticeship are hereby declared to be:

- 35 (a) An obligation on an employer and employee to take all reasonable steps to ensure that the employee is taught, and acquires, the knowledge and skills of an industry:
- 40 (b) Provision for all or most of the knowledge and skills to be acquired by the employee to be acquired by means of practical training received in the course of the employee’s employment, but with the possibility of its being augmented by formal instruction received elsewhere:

- (c) Provision for a period of employment whose length is related to the extent of the knowledge and skills intended to be acquired:
- (d) Provision for some formal recognition of the fact that the employee has acquired the knowledge and skills intended to be acquired, if, when that **(contract) period** expires, the employee has done so. 5

*Arbitration Court***4. Arbitration Court to act as controlling authority—**

- (1) In the exercise and performance of the powers and functions conferred on it by this Act, the Court shall act, and shall be deemed to act, as a controlling authority rather than in its ordinary judicial capacity. 10
- (2) **Subsection (1)** of this section shall not limit the Court's powers in the exercise and performance of its powers and functions under this Act or any other enactment. 15
- (3) In the exercise and performance of its powers and functions under this Act, the Court shall bear in mind the desirability of—
 - (a) Establishing for apprentices training patterns and conditions of employment that are those most likely to enable their effective acquisition of trade skills: 20
 - (b) Protecting the employment of apprentices during their training:
 - (c) Every individual apprentice's receiving theoretical and practical training that will result in the acquisition of a recognised marketable skill: 25
 - (d) The training of such numbers and kinds of skilled worker as the industry and economy of New Zealand require:
 - (e) Equal involvement of employers and workers in matters relating to apprenticeship. 30
- (4) Subject to **subsection (3)** of this section, where any matter before the Court (whether by way of appeal or not) relates to or involves any action or decision of a New Zealand committee or local committee, the Court shall have regard to— 35
 - (a) The objectives of New Zealand committees or local committees, as the case requires; and
 - (b) The extent to which the committee concerned has had regard to those objectives in taking the action, or making the decision, concerned. 40
- (5) Subject to **subsection (6)** of this section, before making any decision, confirmation, order, amendment, cancellation, or modification, under this Act, the Court shall allow any

organisation or person that or who, in the opinion of the Court, is concerned with or may be affected by it, an opportunity to be heard and call evidence relating to it.

(6) Where a proposed amendment of an apprenticeship order is, in the opinion of the Court, of a routine or trivial nature, it shall not be necessary for the Court to hear any formal evidence in respect of it.

5. Appeals generally—(1) Where the Commissioner, a District Commissioner, a New Zealand committee, a local committee, or any subcommittee of a local committee has made any decision under this Act,—

(a) Any party to a contract that is affected by; or
 (b) Any employer, apprentice, proposed apprentice, or organisation, affected by; or
 (c) Any other person or body who or that, in the opinion of the Court, has a sufficient interest in—
 that decision may, within 28 days or such longer period as the Court determines of that decision, appeal to the Court against it.

(2) Subject to **section 4 (5)** of this Act, upon hearing any appeal under **subsection (1)** of this section, the Court shall either—
 (a) Confirm the decision appealed against; or
 (b) Substitute for it any decision the person or committee who or that made it might have made.

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(3) Every decision of the Court under this Act shall have effect according to its tenor, and shall be final and binding on all persons.

New

(3) No decision, order, award, or proceeding of the Court under this Act shall be removable to any Court by certiorari or otherwise or be liable to be challenged, appealed against, quashed, or called into question in any Court, except—

(a) On the ground of lack of jurisdiction; or
 (b) As provided in **section 5A** of this Act.
 (4) For the purpose of **subsection (3) (a)** of this section, the Court lacks jurisdiction where, and only where,—
 (a) In the narrow and original sense of the term jurisdiction, it is not entitled to enter upon the inquiry concerned;
 or

New

- (b) The decision, order, or award concerned is outside the classes of decision, order, and award that the Court is authorised under this Act to make; or
- (c) The Court acts in bad faith. 5

5A. Appeals to Court of Appeal—(1) Where any party to any proceedings under this Act is dissatisfied with any decision of the Court under **section 48** of this Act as being erroneous in point of law, that party may appeal to the Court of Appeal by way of case stated for the opinion of that Court on a question of law only. 10

(2) Part IV of the Summary Proceedings Act 1957 (except sections 113 to 122, 124 to 128, 130 to 132, and 136 to 144), so far as it relates to appeals by way of case stated on questions of law only, shall apply, so far as it is applicable and with the necessary modifications, to every appeal under this section; but in the application of that part, it shall be read as if— 15

- (a) Every reference to a District Court were a reference to the Court:
- (b) Every reference to a District Court Judge or Justice or Justices were a reference to a Judge of the Court: 20
- (c) Every reference to the Registrar of the District Court were a reference to the Registrar of the Court:
- (d) Every reference to the High Court or to the Registrar of the High Court were a reference to the Court of Appeal or, as the case may be, to the Registrar of the Court of Appeal: 25
- (e) Every reference to the respondent were a reference to each of the other parties to the proceedings before the Court other than the appellant. 30

(3) Every such appeal shall be made by giving notice of appeal within 28 days after the date of the issue of the decision to which the appeal relates.

(4) In determining any appeal under this section, the Court of Appeal shall have regard to the special jurisdiction and powers of the Court under this Act and, in particular, to **section 4 (1)** of this Act. 35

(5) In its determination of any such appeal, the Court of Appeal may confirm, modify, or reverse the decision appealed against or any part of it. 40

(6) Notice of appeal shall not operate as a stay of proceedings in respect of the decision to which any such appeal relates unless the Court or the Court of Appeal so orders.

(7) The determination of the Court of Appeal on any such appeal shall be final and conclusive. 45

New

5B. Court of Appeal may refer appeals back for reconsideration—(1) Notwithstanding anything in **section 5A** of this Act, the Court of Appeal may in any case, instead of
5 determining any appeal under that section, direct the Court to reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

(2) In giving any direction under this section, the Court of
10 Appeal shall—

(a) Advise the Court of its reasons for doing so; and

(b) Give to the Court such directions as it thinks just as to
the rehearing or reconsideration or otherwise of the
15 whole or any part of the matter that is referred back for reconsideration.

(3) In reconsidering the matter so referred back, the Court shall have regard to the Court of Appeal's reasons for giving a direction under **subsection (1)** of this section and to the Court of Appeal's directions under **subsection (2)** of this section.

6. Court may delegate functions to District Court Judge—(1) For the purpose of enabling any matter before the Court under any of **sections 18 to 21** of this Act to be disposed of expeditiously, the Court may, by order under its seal or in such other manner as it thinks fit, delegate to any specified
20 District Court Judge all its powers and functions under this Act to deal with and dispose of that matter; and in that case that District Court Judge may deal with and dispose of that matter, and this Act shall apply to the dealing with and disposal of that matter, as if every reference in **sections 4, 5, and 18 to**
25 **21** of this Act to the Court were a reference to that District Court Judge.

(2) Any delegation under **subsection (1)** of this section may at any time be varied or revoked by the Court, in the same manner as it was itself made, if, and only if, the matter
30 delegated has not been finally disposed of by the District Court Judge concerned.

(3) Where any judgment, order, or other instrument is made by a District Court Judge in respect of a matter delegated under **subsection (1)** of this section, it shall be signed by that District
40 Court Judge with the addition of the words "Acting as a duly appointed delegate of the Arbitration Court" or words to that effect, and shall be filed with the Registrar of the Court; and

notice of its making shall forthwith be given to the parties and to all such other persons, and in such manner, as that District Court Judge directs.

(4) Every decision of a District Court Judge in respect of a matter delegated to that District Court Judge under **subsection (1)** of this section shall be as final and binding as if it had been made by the Court, which, subject to **subsection (2)** of this section, shall have no power to vary or reverse it. 5

7. Interpretation of apprenticeship orders, etc.—(1) The Commissioner, and (*every*) any New Zealand committee, may at any time state a case, in relation to any matter arising out of the Commissioner's or that committee's functions under this Act, for the advice and opinion of the Court. 10

(2) Any of the following may apply to the Court for its opinion on any matter connected with the construction of an apprenticeship order or of any determination or direction of the Court under this Act: 15

(a) The Commissioner:

(b) All District Commissioners:

(c) All— 20

(i) New Zealand committees; and

(ii) Local committees; and

(iii) Organisations of employers or workers; and

(iv) The parties to a contract—

that or who are or may be affected by that order, determination, or direction. 25

(3) Where, in the opinion of the Court, it is inadvisable for the Court to give its opinion on any matter in respect of which an application is made under **subsection (2)** of this section, the Court may decline to do so. 30

(4) Where, in relation to any opinion on any matter in respect of which an application was made under **subsection (2)** of this section, the Court is satisfied that—

(a) It was not fully informed; or

(b) That matter affects parties other than those who made that application; or 35

(c) The application for and obtaining of that opinion defeats or avoids, or tends to defeat or avoid, penalties that should not be defeated or avoided, or protects or tends to protect any party involved in the making of that application from the consequences of any wilful breach of this Act,— 40

the Court may refuse to be bound by that opinion in relation to that matter, any other matter, or both.

8. Apprenticeship committees may refer matters to

Court—(1) Where any New Zealand committee or local committee, or a subcommittee of any local committee, is unwilling or unable to decide any matter before it, it may refer
 5 that matter to the Court for decision; and subject to **section 4 (5)** of this Act, the Court shall decide that matter.

(2) Where any such committee or subcommittee that is unwilling or unable to decide any matter before it fails or refuses within a reasonable time to refer that matter to the
 10 Court for decision, any person or organisation that might be affected by any decision made on that matter may apply to the Court to have the matter decided by the Court; and, subject to **section 4 (5)** of this Act, the Court may, if it thinks fit, decide that matter.

15 *Contracts of Apprenticeship*

9. Agreements for apprenticeship—(1) Any employer who (*wishes*) proposes to engage any person as an apprentice in a relevant industry (*may*) shall apply to the appropriate District Commissioner for the approval of a date of commencement
 20 of an agreement for apprenticeship between them; and in that case, the following provisions shall apply:

(a) Where the employer has no assessed training capacity, or where the engagement of the proposed apprentice as an apprentice would have the effect that the
 25 assessed training capacity of the employer would be exceeded, the District Commissioner shall cause the employer's training capacity to be assessed or, as the case requires, reassessed under this Act:

(b) Where the proposed apprentice is not already employed by the employer, only the District Commissioner shall
 30 have the power to approve a date:

(c) Where the proposed apprentice is already employed by the employer, only the appropriate local committee shall have the power to approve a date; and before
 35 doing so it shall consider the circumstances under which the proposed apprentice was so employed and the training the proposed apprentice has already received while so employed, and may retroactively approve any date upon which, in its opinion, the apprenticeship effectively began:

(d) The District Commissioner or local committee shall refuse
 40 to approve any date if, in the District Commissioner's

or committee's opinion (as the case requires), the employment or proposed employment concerned would—

(i) Not be in conformity with the appropriate apprenticeship order or any relevant order of the Court; or

(ii) Have the effect that the assessed training capacity of the employer would be exceeded:

(e) Where a date is approved,—

(i) If the approval is later endorsed by the registration of a contract, the proposed apprentice shall be deemed to have been employed under that contract since that date; and

(ii) If the approval is not so endorsed, the proposed apprentice shall, until it is cancelled under this Act, be deemed to have been employed under an agreement for apprenticeship since that date.

(2) Any employer who (*wishes*) proposes to engage any person as an apprentice in an industry that is not a relevant industry (*may*) shall apply through the appropriate District Commissioner to the Commissioner for the approval of a date of commencement for an agreement for apprenticeship between them; and in that case, the following provisions shall apply:

(a) The District Commissioner shall cause the training capacity of the employer to be assessed under this Act; and no further action shall be taken in respect of the application unless, in the opinion of the District Commissioner, the employment of the proposed apprentice would not have the effect that the assessed training capacity of the employer would be exceeded:

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(b) Where no contract has previously been registered in respect of an apprentice employed in the industry concerned, the Commissioner shall not approve such a date—

(i) Until the Commissioner has consulted the national organisations of employers and workers whose members are, in the Commissioner's opinion, most likely to be affected by the proposed approval; and

(ii) Where any of those organisations disagrees with the proposed approval, until the Commissioner has obtained the consent of the Court, given subject to any conditions it thinks fit:

New

- 5 (b) Where no contract has previously been registered in respect of an apprentice employed in the industry concerned, the Commissioner shall consult the national organisations of employers and workers whose members are, in the Commissioner's opinion, most likely to be affected by the proposed approval; and, subject to **paragraph (ba)** of this subsection, shall not approve such a date unless all those organisations agree with the proposed approval:
- 10 (ba) Where—
- (i) One of those organisations indicates to the Commissioner that it does not agree with the proposed approval; or
- 15 (ii) Three months has elapsed since consultations commenced, and not all those organisations have indicated to the Commissioner that they agree with the proposed approval,—
- 20 the Commissioner may apply to the Court for consent to approve such a date; and may approve such a date with that consent (which may be given subject to any conditions the Court thinks fit):
- 25 (c) Without limiting the generality of **subparagraph (ii)** of **paragraph (b)** of this subsection, it may be a condition of the consent of the Court to an approval by the Commissioner under this subsection that the contract to the registration of which that approval is intended to lead is to be regarded as experimental only; and in that case this subsection shall apply to any further
- 30 proposed approval relating to the industry concerned as if that contract had not been registered:
- (d) Where, in the opinion of the Commissioner, reached in the light of any submissions made to the Commissioner, the proposed engagement would not sufficiently exhibit the characteristic features of apprenticeship, the Commissioner shall approach all the parties involved and attempt to have the circumstances of the proposed engagement so modified that, in the opinion of the Commissioner, it does sufficiently exhibit those features; but if those circumstances are not so modified, the Commissioner shall
- 35 refuse to approve a date:
- 40

- (e) Subject to **paragraphs (a) to ((c)) (d)** of this subsection, where the proposed apprentice is already employed by the employer, the Commissioner shall consider the circumstances under which the proposed apprentice was so employed and the training the proposed apprentice has already received while so employed, and may retroactively approve any date upon which, in the Commissioner's opinion, the apprenticeship effectively began: 5
- (f) When approving any date, the Commissioner may require 10 the inclusion in any proposed contract prepared in respect of the engagement concerned of provisions importing into that proposed contract specified parts of or provisions from either or both of the following: 15
- (i) Any existing apprenticeship orders;
 - (ii) Any orders of the Court;—
- and in that case no proposed contract shall be registered in respect of that engagement unless it contains the provisions required to be included:
- (g) Where a date is approved,— 20
- (i) If the approval is later endorsed by the registration of a contract, the proposed apprentice shall be deemed to have been employed under that contract since that date; and
 - (ii) If the approval is not so endorsed, the proposed 25 apprentice shall, until it is cancelled under this Act, be deemed to have been employed under an agreement for apprenticeship since that date.
- (3) When refusing an approval under this section, the Commissioner, a District Commissioner, or a local committee 30 (as the case requires), shall give the applicant concerned—
- (a) Notice of the reasons for the refusal; and
 - (b) Such advice or information (if any) as may be likely to enable a further application to be granted.

10. Contracts of apprenticeship—(1) When a date is 35 approved under **section 9** of this Act, the appropriate District Commissioner shall prepare, and submit to the employer for execution by the parties, a proposed contract in the prescribed form.

(2) Subject to **subsection (3)** of this section, if an apprentice 40 has not attained the age of 18 years when executing a proposed contract, a parent or guardian shall also execute it; and in that case that parent or guardian shall, until that apprentice attains

that age, be deemed to be, and since the date of commencement of that contract to have been, a party to and bound by it.

(3) Where no parent or guardian of a proposed apprentice
5 can or will execute a proposed contract, section 9 of the Minors' Contracts Act 1969 shall apply to that contract.

(4) If a proposed contract issued under **subsection (1)** of this section is not returned to the District Commissioner concerned, duly executed, within 28 days of being so submitted, that
10 District Commissioner may cancel the approval of the commencement date of the antecedent agreement for apprenticeship.

(5) Except as otherwise provided in this Act, if such a proposed contract is so returned, the District Commissioner
15 concerned shall register it.

(6) Where a District Commissioner, before registering any proposed contract, becomes satisfied that circumstances have so altered that it is no longer appropriate that the parties to it should become bound by it, that District Commissioner shall
20 refuse to register it.

(7) If a District Commissioner, before registering any proposed contract, becomes satisfied that any provision inserted in it is in any respect contrary to this Act, or any decision made by the Court, the Commissioner, that District
25 Commissioner, the New Zealand committee concerned, the local committee concerned, or any subcommittee of that committee, or is not a provision appropriate to such a contract, that District Commissioner shall refuse to register that proposed contract.

30 *New*

(7A) When refusing to register a proposed contract, a District Commissioner shall give the parties concerned—

(a) Notice of the reasons for the refusal; and
35 (b) Such advice or information (if any) as may be likely to enable a proposed contract between those parties to be registered.

(8) Where, in accordance with this Act, a District Commissioner refuses to register any proposed contract, that District Commissioner shall forthwith cancel the approval of
40 the commencement date of the antecedent agreement for apprenticeship.

(9) Subject to **(subsection (10)) subsections (9A) and (10)** of this section, no cancellation under **subsection (8)** of this section shall be effective until the expiration of 28 days from the date on which the District Commissioner concerned notifies the parties to the proposed contract concerned of it.

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New

(9A) Where within 28 days as aforesaid the parties so modify the proposed contract concerned that the District Commissioner concerned is no longer satisfied of any matter that would require that District Commissioner to refuse, under **subsection (6) or subsection (7)** of this section, to register that proposed contract,—

10

- (a) That District Commissioner shall register it; and
- (b) Upon its registration, the earlier cancellation of the antecedent agreement for apprenticeship shall be of no effect.

15

(10) Where within 28 days as aforesaid any such party appeals to the Court against the decision to cancel the approval concerned, the cancellation shall not have effect unless and until the Court confirms that decision.

20

(11) Where the Court has reversed the cancellation under **subsection (8)** of this section of the approval of the commencement date of any agreement for apprenticeship,—

- (a) That approval shall be deemed to have been reinstated from the date of its cancellation; and
- (b) The District Commissioner concerned shall forthwith register the proposed contract concerned.

25

(12) Once registered, a contract shall have effect from the commencement date of the antecedent agreement for apprenticeship; and the approval of that date shall upon that registration be deemed to have been endorsed.

30

(13) Subject to **subsection (2)** of this section and to **section 15 (5)** of this Act, the parties concerned, and the lawful successors to the employer concerned, shall remain parties to and bound by a contract until it is completed, cancelled, or terminated under this Act.

35

(14) Where a body corporate is a party to a contract, that contract need not be under seal, but may be executed on its behalf by any person or persons authorised by law to sign contracts on its behalf.

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(15) When refusing to register a proposed contract, a District Commissioner shall give the parties concerned—

- (a) Notice of the reasons for the refusal; and
- 5 (b) Such a advice or information (if any) as may be likely to enable a proposed contract between those parties to be registered.

11. Secondments—(1) Any apprentice may, in accordance with this section, in order to supplement the training that
10 apprentice would otherwise receive, be seconded to some employer other than that apprentice's employer, who is willing and able to undertake that apprentice's training.

(2) If all the parties to any contract agree, a secondment may
15 take place without the seeking or granting of any other decision or approval.

(3) If all the parties to any contract do not agree to a proposed secondment, the proposal shall be put to the appropriate local committee, which shall determine whether
20 or not it is to take place, and, if so, the conditions (if any) subject to which it is to take place; and where any determination is made under this subsection, a provision to its effect shall be deemed to be contained in that contract.

(4) Where a local committee is satisfied that in order to—

- 25 (a) Improve the quality or variety of the training received by any proposed apprentice; or
- (b) Enable an employer who would not otherwise employ or train apprentices to participate in the training of apprentices,—

30 it is desirable that any proposed contract contain any provisions relating to periods of secondment, it shall take such steps as it thinks fit to encourage the inclusion of such provisions in that proposed contract.

(5) Where a local committee, after the matter has been referred to it by the appropriate District Commissioner, is
35 satisfied that an employer who employs or wishes to employ an apprentice cannot provide all the necessary training, it may, at the time a proposed contract is sent out by or returned to that District Commissioner for registration, require it to contain a provision providing for periods of secondment, and the
40 conditions subject to which that secondment is to take place; and until such a provision is contained in it, that District Commissioner shall refuse to register that proposed contract.

(6) Where a District Commissioner, before registering any amendment to a contract under this section, becomes satisfied that—

(a) Circumstances have so altered that it is no longer appropriate that the parties to it should become bound by it; or

(b) Any provision in it is in any respect contrary to this Act, or any decision made by the Commissioner, that District Commissioner, the Court, the New Zealand committee concerned, the local committee concerned, or a subcommittee of that local committee, —
that District Commissioner shall refuse to register that amendment.

(7) Where a local committee at any time becomes satisfied that the training being provided for an apprentice employed under a contract is not adequate, it may require that that contract be amended by the insertion of a provision providing for a period of secondment, and specifying the conditions subject to which it is to take place; and in that case, such a provision shall, unless the Court reverses that requirement, be deemed to be contained in that contract.

(8) During any period of secondment, the original employer concerned shall be deemed to be training the apprentice concerned; and all the provisions of the contract concerned shall continue to apply.

(9) Notwithstanding anything in this section, no apprentice shall be seconded to the Public Service, the New Zealand Railways Corporation, or the Post Office, except in accordance with **section 16** of this Act.

12. Group apprenticeships—(1) Any number of employers in the same general locality may apply to the appropriate local committee for the approval of a group apprenticeship training scheme with the following features:

(a) The engagement of one or more apprentices by each such employer:

(b) The engagement of those apprentices in the same relevant industry:

(c) The inclusion in the contract of each such apprentice of a provision providing for the secondment of that apprentice for not more than 3 periods to others of those employers.

- (2) Where a local committee is satisfied that, in order to—
 - (a) Improve the quality or variety of the training received by any proposed apprentices; or
 - (b) Enable employers who would not otherwise employ or
- 5 train apprentices to participate in the training of apprentices,—

it is desirable that any group apprenticeship scheme should proceed, it shall take such steps as it thinks fit to encourage the making of an appropriate application under **subsection (1)** of this section.

10

(3) Subject to **subsection (4)** of this section, where a local committee approves a group apprenticeship scheme, it shall specify the provisions to be contained in the contracts concerned relating to the duration and timing of the periods of secondment concerned; and until those provisions are

15 contained in all of them, the District Commissioner concerned shall refuse to register any of those contracts.

(4) It shall not be necessary for apprentices in an approved group apprenticeship scheme to undertake periods of

20 secondment at the same time; and any such apprentice who is on secondment to an employer shall not be taken into account for the purpose of assessing whether or not the training capacity of that employer is being or may be exceeded.

13. Joint contracts—Any 2 or more employers in the same general locality and the same relevant industry may apply to

25 the appropriate local committee for the approval of a commencement date of an agreement for apprenticeship between them jointly and one or more apprentices; and where that approval is given—

- (a) This Act shall apply as if those employers were one employer; and
 - (b) The resulting contracts shall be binding upon each of them jointly and severally, and shall bind the apprentices concerned (and, where appropriate, their
- 30 parents or guardians) accordingly.
- 35

14. Apprenticeship to industry—(1) For the purpose of maintaining or increasing the opportunities for persons in the same general locality to become apprentices in the same relevant industry, any association of employers, being

40 employers in that industry and locality, may agree with the appropriate New Zealand committee that that association should become an employer of apprentices.

(2) The appropriate local committee shall report to the New Zealand committee concerned on every proposed agreement under **subsection (1)** of this section, and on any other matters it thinks relevant.

(3) In determining whether or not to come to an agreement under **subsection (1)** of this section, a New Zealand committee shall take into account the following matters:

- (a) The report of the local committee concerned;
- (b) The number of apprentices intended to be employed;
- (c) The general nature of the arrangements under which those apprentices are proposed to be trained;
- (d) The extent of the proposed involvement of employers in the scheme (whether or not members of the applicant association);
- (e) The extent to which the scheme may inhibit or prevent other employers in the locality concerned from training apprentices in the industry concerned;
- (f) The intended duration of the scheme;
- (g) Whether or not the association concerned intends to employ a person to supervise and take responsibility for the overall training and welfare of the apprentices proposed to be employed;
- (h) The extent to which the scheme is likely to require apprentices employed under it to be seconded outside the locality concerned.

(4) An agreement under **subsection (1)** of this section may be subject to any conditions the parties think fit.

(5) Subject to the conditions (if any) contained in it, for so long as an agreement under **subsection (1)** of this section continues in force, this Act shall apply to the association concerned as if—

- (a) It is an employer; and
- (b) The various employers for the time being taking part in the scheme are other employers to which the apprentices concerned are to be seconded;—

and until a proposed contract pursuant to that agreement satisfies those conditions, the District Commissioner concerned shall refuse to register it.

Administration of Contracts

15. Transfers—(1) Any party to a contract may apply to the appropriate District Commissioner for a transfer of the apprentice concerned to another employer in the same industry who is willing and able to employ that apprentice; and in that case—

(a) Where all the parties to that contract agree, that District Commissioner; and

(b) In every other case, the appropriate local committee—
5 may approve or decline the transfer and, if the transfer is approved, shall set the date on which it takes effect.

(2) The appropriate local committee may order the transfer of an apprentice from one employer to another employer in the same industry who is willing and able to employ the apprentice, and set the date on which the transfer takes effect.

10 (3) Where an order under **subsection (2)** of this section is made, the assessed training capacity of the employer to whom the apprentice is to be transferred may to that extent be exceeded.

(4) Before a District Commissioner or local committee approves or orders a transfer, that District Commissioner or
15 committee shall be satisfied either that the apprentice concerned has been seconded to the proposed employer for a continuous period of not less than one month or that a period of secondment would be impracticable; and the date fixed for the transfer shall be such date, on or after the
20 commencement of any secondment, as that District Commissioner or local committee, as the case requires, thinks fit.

(5) Where an apprentice is transferred under this section, the original employer shall retain all the obligations under the
25 contract until the date set as the date on which the transfer takes effect, and thereafter the new employer shall be deemed to be the employer under the contract.

(6) The District Commissioner concerned shall make an appropriate note on the contract of every apprentice
30 transferred under this section as to the transfer and effective date, and notify the parties accordingly.

16. Secondments to State Services—(1) Where a secondment for an apprentice is appropriate for any reason and it is not practicable to obtain an employer in the same
35 industry and locality, the appropriate District Commissioner may approve a secondment—

(a) Subject to section 70 (3) of the State Services Act 1962, to any part of the Public Service, in which case the apprentice shall during the period of secondment be
40 subject to the State Services Act 1962; or

(b) To the New Zealand Railways Corporation, in which case the apprentice shall during the period of the secondment be subject to the New Zealand Railways Corporation Act 1981; or

(c) To the Post Office, in which case the apprentice shall during the period of the secondment be subject to the Post Office Act 1959;—

but the contract concerned shall for the time being continue in full force.

5

(2) The appropriate District Commissioner shall from time to time ascertain the status of the employment of any apprentice seconded under **subsection (1)** of this section.

(3) If an apprentice seconded under **subsection (1)** of this section is permanently appointed to a position in the Public Service, Post Office, or New Zealand Railways Corporation (as the case may be) the appropriate District Commissioner shall cancel that apprentice's contract with effect from the date of appointment.

10

17. Termination of contracts—(1) During any period of probation provided for in any contract, that contract may be terminated at any time by the employer, or by the apprentice and the parent or guardian (if any) who is a party to it.

15

(2) Every termination in the probationary period shall be notified by the employer to the appropriate District Commissioner as soon as is possible.

20

(3) The parties to a contract may at any time agree to its termination.

(4) Every agreement *(to terminate a contract)* under **subsection (3) of this section** shall be notified to the appropriate District Commissioner by the employer as soon as is possible.

25

(5) No such agreement shall operate to terminate a contract until one month after the date of its notification under **subsection (4)** of this section; but the parties shall retain no contractual obligations during that period.

30

(6) Any *(agreement to terminate a contract)* such agreement may be cancelled by agreement of the parties at any time before the expiration of one month from its notification as aforesaid; and in that case the employer shall notify the appropriate District Commissioner accordingly, and that contract shall continue in force accordingly.

35

18. Cancellation of contracts—(1) Subject to **subsection (2)** of this section, a local committee may, by virtue of the abandonment of a contract by any party to it or the inability of any party to a contract to perform any obligation under it, or for any other sufficient reason, of its own motion or on the application of any party, cancel any contract.

40

(2) Before cancelling a contract, a local committee shall give all parties to it an opportunity to be heard as to whether or not it should be cancelled.

45

19. Suspension and discharge of apprentices—(1) Where an employer alleges misconduct on the part of an apprentice that would be serious enough to warrant dismissal if that apprentice were an employee but not an apprentice, that
 5 employer may suspend that apprentice and apply to the appropriate local committee within 3 working days of the suspension for leave to discharge that apprentice.

(2) An employer may withhold any wages due to an apprentice in respect of any period of suspension under
 10 **subsection (1)** of this section.

(3) The local committee concerned shall (*as soon as is possible*) if possible within 7 working days and if not as soon as is possible, consider every application under **subsection (1)** of this section and, after giving the parties an opportunity to be heard,
 15 may grant or refuse leave to discharge the apprentice concerned.

(4) Where under **subsection (3)** of this section a local committee grants leave to an employer to discharge an apprentice:

(a) It shall forthwith inform the parties to the contract concerned of its decision:
 20

(b) The employer may at any time within **(7) 5 working** days of being informed of that decision discharge the apprentice; but, if the apprentice has not at the expiration of that period been discharged, this section shall thereafter apply to the apprentice as if the misconduct in respect of which the original suspension arose had not taken place:
 25

(c) If the employer discharges the apprentice under **paragraph (b)** of this subsection, and the Court subsequently reverses the decision of the local committee to give the employer leave to do so, the apprentice shall not be entitled to any wages for the period between the suspension and the decision of the Court; and the employer shall either—
 30

(i) Forthwith reinstate the apprentice; or
 35

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(ii) Pay to the apprentice such amount (not exceeding 3 months wages) as the Court decides when reversing the decision concerned.

New

(ii) Pay to the apprentice an amount not exceeding 3 months wages,—
as the Court decides when reversing the decision concerned.

5

Struck Out

(5) Where under **subsection (3)** of this section a local committee refuses leave to an employer to discharge an apprentice,—

(a) It may order the employer to pay to the apprentice all or such part as it thinks fit of the wages that would have been payable to the apprentice during the period between the suspension and the order: 10

(b) The employer shall forthwith reinstate the apprentice; and if the employer does not do so, **subsection (6)** of this section shall apply to the apprentice: 15

(c) If the employer so reinstates the apprentice and the Court subsequently reverses the decision of the local committee, the employer may at any time within 7 days of being informed of the Court's decision discharge the apprentice; but if the apprentice has not at the expiration of that period been discharged, this section shall thereafter apply to that apprentice as if the misconduct in respect of which the original suspension arose had not taken place. 20

(6) Where this subsection applies to an apprentice,— 25

(a) Notwithstanding **section 5 (1)** of this Act, the apprentice's employer shall have no right of appeal against the decision of the local committee to refuse approval to discharge the apprentice; and

(b) The appropriate District Commissioner shall, as soon as is practicable, apply to the Court for an order for the payment to the apprentice of— 30

(i) The amount (if any) ordered to be paid under **subsection (5) (a)** of this section; and

(ii) All the wages that would have been payable to the apprentice during the period between the local committee's decision and the Court's order; and 35

(iii) Such further amount (not exceeding 3 months wages) as the Court decides;—

and if the Court is satisfied that that employer failed or refused to reinstate the apprentice forthwith after being refused approval to discharge the apprentice, it shall make such an order accordingly. 40

New

- (4A) Where under **subsection (3)** of this section a local committee refuses leave to an employer to discharge an apprentice, it may order that employer to pay to that apprentice all or such part as it thinks fit of the wages that would have been payable to that apprentice during the period of that apprentice's suspension.
- (5) Where under **subsection (3)** of this section a local committee refuses leave to an employer to discharge an apprentice,—
- 10 (a) The employer shall, within 3 working days of the refusal,—
- (i) Unconditionally reinstate the apprentice, and pay to the apprentice the amount (if any) ordered to be paid under **subsection (4A)** of this section; or
- 15 (ii) Appeal against the refusal and provisionally reinstate the apprentice pending the outcome of the appeal; or
- (iii) Appeal against the refusal and refuse to reinstate the apprentice;—
- 20 and if the employer does not within that period take one of those courses of action, **subsection (6)** of this section shall apply to the apprentice and, notwithstanding **section 5 (1)** of this Act, the employer shall have no right to appeal against that refusal:
- 25 (b) Where—
- (i) The employer has appealed as aforesaid; and
- (ii) The Court subsequently reverses the refusal of the local committee,—
- 30 the employer may at any time within 5 working days of being informed of the Court's decision discharge the apprentice; but if the apprentice has not at the expiration of that period been discharged, this section shall thereafter apply to the apprentice as if the misconduct in respect of which the original suspension arose had not taken place:
- 35 (c) Where—
- (i) The employer has appealed as aforesaid; and
- (ii) The Court subsequently upholds the refusal of the local committee,—
- 40 the Court may order the employer to pay to the apprentice all or any part of each of the amounts specified in **paragraphs (a) and (b) of subsection (6)** of this section.

New

(6) Where this subsection applies to an apprentice, the appropriate District Commissioner shall, as soon as is practicable, apply to the Court for an order for the payment by that apprentice's employer to that apprentice of— 5

- (a) An amount equal to the wages that would have been payable to that apprentice during the period between that apprentice's suspension and the Court's order, other than those in fact paid to that apprentice in respect of a period of provisional reinstatement; and 10
- (b) Such further amount (not exceeding 3 months wages) as the Court decides;—

and if the Court is satisfied that within 3 working days of the local committee's refusal that employer neither unconditionally reinstated that apprentice nor appealed to the Court against 15 that refusal, it may order that employer to pay to that apprentice all or any part of each of those amounts.

(6A) For the purposes of section 226 of the Companies Act 1955 and section 32 of the Insolvency Act 1967, an application under **subsection (6)** of this section shall be deemed not to be 20 an action or proceeding.

(7) If an apprentice is lawfully discharged under this section, the contract concerned shall be deemed to have been cancelled on the last day of that apprentice's employment; but if that apprentice is later reinstated under this section, that contract 25 shall thereupon be deemed—

- (a) To have been revived; but
- (b) Not to have been in force during any period when that apprentice was suspended or discharged.

20. Winding up of businesses—(1) Subject to subsection (2) 30 of this section, where the employer of any apprentice is adjudicated a bankrupt or, being a company, is wound up, the adjudication or winding-up shall, as between that employer and apprentice, be a complete discharge of their respective liabilities under the contract concerned. 35

(2) Where the employer of any apprentice is adjudicated a bankrupt, or, being a company, is wound up or is being wound up, or where a receiver has been appointed, or, being a partnership, is dissolved, and that apprentice is thereby 40 deprived of employment under that apprentice's contract, the Court, on application by that apprentice (or parent or guardian,

if appropriate), or by the appropriate District Commissioner on that apprentice's behalf, may, in its discretion, order payment to that apprentice of an amount not exceeding 3 months wages in respect of any period intervening between
 5 the time when that apprentice is so deprived of employment and the time when that apprentice obtains or obtained other employment as an apprentice in the same industry or other suitable permanent employment; and any such amount shall constitute a debt payable to that apprentice by that employer
 10 ranking equally for payment with the debts mentioned in section 104 (1)(d) of the Insolvency Act 1967 or section 308 (1)(d) of the Companies Act 1955, as the case requires, notwithstanding anything to the contrary in either of those Acts.

15 **21. Unlawful discharge**—(1) Where an employer, without proceeding in accordance with any of the provisions of this Act relating to the lawful relief from a contract, discharges an apprentice, or having suspended an apprentice fails to apply under **section 19 (1)** of this Act, that apprentice (or parent or
 20 guardian, if appropriate) may within 3 months after the last day of employment of that apprentice apply to the appropriate local committee for relief from the discharge or suspension; and, where no such application is made within that period, that contract shall be deemed to have been cancelled on the
 25 day that apprentice was discharged or, as the case requires, suspended.

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(2) A local committee shall consider every application under **subsection (1)** of this section as soon as is possible after giving
 30 the parties to the contract concerned an opportunity to be heard, and may grant or refuse relief from discharge or suspension.

New

(2) The local committee concerned shall, if possible within
 35 7 working days and if not as soon as is possible, consider every application under **subsection (1)** of this section and, after giving the parties an opportunity to be heard, may grant or refuse relief from discharge or suspension.

(3) Where any relief is granted under **subsection (2)** of this section the local committee concerned shall either order reinstatement and make such order as it thinks fit with respect to payment of wages in respect of the period of discharge or suspension, or order payment to the apprentice concerned of an amount not exceeding 3 months wages in respect of any period intervening between the time when that apprentice was discharged or suspended and the time when that apprentice obtains or obtained other employment as an apprentice in the same industry, or other suitable permanent employment.

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(4) If an employer does not reinstate an apprentice when an order to that effect is made under this section,—

(a) Notwithstanding **section 5 (1)** of this Act, the employer shall have no right of appeal against that order; and

(b) The appropriate District Commissioner shall, as soon as is practicable, apply to the Court for an order for the payment to the apprentice of—

(i) All the wages that would have been payable to the apprentice during the period between the date of the discharge or suspension concerned and the Court's order; and

(ii) Such further amount (not exceeding 3 months' wages) as the Court decides;—

and if the Court is satisfied that the employer failed or refused to reinstate the apprentice forthwith after being ordered by the local committee concerned to do so, it shall make such an order accordingly.

New

(4) Where under **subsection (3)** of this section a local committee orders an employer to reinstate an apprentice,—

(a) The employer shall, within 3 working days of the order,—

(i) Unconditionally reinstate the apprentice, and pay to the apprentice the amount (if any) ordered to be paid under that subsection; or

(ii) Appeal against that order and provisionally reinstate the apprentice pending the outcome of the appeal; or

(iii) Appeal against that order and refuse to reinstate the apprentice;—

and if the employer does not within that period take one of those courses of action, **subsection (4A)** of this

New

section shall apply to the apprentice and, notwithstanding **section 5 (1)** of this Act, the employer shall have no right to appeal against that order:

5 (b) Where—

(i) The employer has appealed as aforesaid; and

(ii) The Court subsequently reverses the order of the local committee that the apprentice be reinstated,—

10 the employer may at any time within 5 working days of being informed of the Court's decision discharge the apprentice; but if the apprentice has not at the expiration of that period been discharged, the employer shall not thereafter discharge the apprentice except in accordance with this Act:

15

(c) Where—

(i) The employer has appealed as aforesaid; and

(ii) The Court subsequently upholds the order of the local committee that the apprentice be reinstated,—

20

the Court may order the employer to pay to the apprentice all or any part of each of the amounts specified in **paragraphs (a) and (b) of subsection (4A)** of this section.

25 (4A) Where this subsection applies to an apprentice, the appropriate District Commissioner shall, as soon as is practicable, apply to the Court for an order for the payment by that apprentice's employer to that apprentice of—

30 (a) An amount equal to the wages that would have been payable to that apprentice during the period between that apprentice's suspension or, as the case requires, discharge and the Court's order, other than those in fact paid to that apprentice in respect of a period of provisional reinstatement; and

35 (b) Such further amount (not exceeding 3 months wages) as the Court decides;—

40 and if the Court is satisfied that within 3 working days of the local committee's order that employer neither unconditionally reinstated that apprentice nor appealed to the Court against that order, it may order that employer to pay to that apprentice all or any part of each of those amounts.

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(5) Where an order is made by the Court or a local committee for payment of wages under this section or **section 19** of this Act and the employer concerned is adjudicated a bankrupt, or, being a company, is wound up or being wound up, or where a receiver is appointed or, being a partnership, is dissolved, after the last day of employment of the apprentice concerned, the amount shall constitute a debt payable to the

New

(5) Where an employer is adjudicated a bankrupt, or, being a company, is wound up or being wound up or has a receiver appointed, or, being a partnership, is dissolved, and an order by the Court or a local committee for the payment of wages to an apprentice employed by that employer has been made, or is thereafter made, under this section or **section 19** of this Act, the amount shall constitute a debt payable to the

apprentice by that employer ranking equally for payment with the debts mentioned in section 104 (1) (d) of the Insolvency Act 1967 or section 308 (1) (d) of the Companies Act 1955, as the case requires, notwithstanding anything to the contrary in those Acts.

New

(5A) For the purposes of section 226 of the Companies Act 1955 and section 32 of the Insolvency Act 1967, an application under **subsection (4A)** of this section shall be deemed not to be an action or proceeding.

(6) Where relief as aforesaid is refused by a local committee under this section, the contract concerned shall be deemed to have been cancelled on the last day of employment of the apprentice concerned.

22. Certificate of service—(1) Subject to **subsection (2)** of this section, where—

- (a) An apprentice ceases to be employed by the employer under that apprentice's contract; or
- (b) By reason of the completion of an apprentice's contract, that apprentice ceases to be employed as an apprentice,—

that apprentice's employer shall supply the appropriate District Commissioner with a written statement setting forth the service as an apprentice of that apprentice or former apprentice.

(2) Where the appropriate District Commissioner—

(a) Is satisfied that circumstances have arisen that require the employer of an apprentice or former apprentice to supply a statement under **subsection (1)** of this section; and

5 (b) Has been unsuccessful in obtaining such a statement from that employer and believes it unlikely that such a statement can be obtained from that employer,—
that District Commissioner shall complete, on the basis of all
10 the information available to that District Commissioner, a statement in substitution for the statement required to be supplied by that employer.

23. Certificate of completion of contract—Where satisfied that an apprenticeship has been duly completed, the
15 appropriate local committee shall supply a certificate to that effect to the apprentice concerned.

New Zealand Apprenticeship Committees

24. Establishment of New Zealand committees—(1) One or more organisations of employers, and one or more
20 organisations of workers, in any industry may jointly apply to the Commissioner for the establishment of an apprenticeship committee in respect of the whole of New Zealand for that industry.

(2) Subject to **subsections (3) and (5)** of this section, where
25 satisfied, in respect of any application under **subsection (1)** of this section, that—

(a) No New Zealand committee exists for the industry concerned; and

30 (b) The applicant organisations are, respectively, most representative of employers and workers in that industry,—

the Commissioner shall establish an apprenticeship committee in respect of the whole of New Zealand for that industry.

(3) Subject to **subsection (5)** of this section, where satisfied, in
35 respect of an application under **subsection (1)** of this section, that—

(a) One of the applicant organisations is represented on some existing New Zealand committee; and

40 (b) Apprenticeship training in the industry concerned would be better served by the extension of the scope of that New Zealand committee to that industry than by the establishment of a new New Zealand committee for that industry,—

the Commissioner shall refer the matter to the Court for decision, and establish or decline to establish a new New Zealand committee for that industry in accordance with the decision of the Court.

(4) Subject to **subsection (5)** of this section, the Court may, of its own motion or on application by any organisation or person, direct the establishment of an apprenticeship committee in respect of the whole of New Zealand for any industry for which no New Zealand committee then exists; and in that case a committee shall be established accordingly.

(5) No New Zealand committee shall be established in respect of any industry or part of an industry in respect of which any training scheme is established by or under any enactment other than this Act.

(6) The Court may, on the application of the Commissioner or any interested person or organisation, disestablish a New Zealand committee.

25. Extensions of scope of New Zealand committees— One or more organisations of employers and one or more organisations of workers in any industry may jointly apply to the Commissioner for the extension to that industry of the scope of any New Zealand committee; and in that case **section 24** of this Act shall apply as if—

- (a) Every reference to the establishment of a committee were a reference to the extension of the scope of that New Zealand committee; and
- (b) Every reference to the possible extension of the scope of a New Zealand committee were a reference to the extension of the scope of some New Zealand committee other than that New Zealand committee.

26. Review of existing New Zealand committees—(1) The Commissioner shall from time to time, and at least every 6 years, review the extent to which the organisations that nominate the employer and worker members of each New Zealand committee are representative of the employers and workers involved in the industry concerned, and whether or not the scope of that committee might usefully be extended.

(2) If at any time the Commissioner becomes satisfied that any organisation that nominates the employer or worker members of a New Zealand committee is not adequately representative of the employers or workers involved in the industry concerned, or if the Commissioner is satisfied that its scope might usefully be extended, the Commissioner shall

notify those organisations, and any other organisation the Commissioner thinks appropriate, in writing of that fact; and in that case, for the period of 6 months from the date of the notification concerned, **section 24** of this Act shall apply to the industry concerned as if no New Zealand committee exists for it.

(3) Where, during any such period of 6 months,—

(a) A new New Zealand committee is established for the industry concerned, whether or not extended in scope; or

(b) The scope of some other existing New Zealand committee is extended to cover the whole of that industry,—the existing New Zealand committee concerned shall thereupon be disestablished; but where neither such event takes place, the Commissioner shall so inform the Court, which shall either disestablish or decline to disestablish that New Zealand committee.

27. Disestablishment of New Zealand committee—Where the Court disestablishes any New Zealand committee, and there exist one or more apprenticeship orders for the industry concerned, it shall either—

(a) Cancel that order or those orders; or

(b) Cancel such (if any) of those orders as it thinks fit, and empower the Commissioner, for a specified period not exceeding 2 years, to exercise and perform all the powers and functions of the disestablished committee; and in that case, until a new New Zealand committee is established for that industry, or that order or the residue of those orders is or are cancelled,—

(i) The Commissioner shall have and may exercise and perform those powers and functions accordingly; and

(ii) The Court shall from time to time, for specified periods not exceeding 2 years, extend the Commissioner's authority to do so.

28. Membership of New Zealand committees—(1) Every New Zealand committee shall comprise—

(a) The following members, appointed by the Commissioner:

(i) Four members nominated by the organisations of employers concerned:

(ii) Four members nominated by the organisations of workers concerned:

(b) One member from time to time appointed by the Director-General of Education:

(c) The Commissioner.

(2) Subject to **subsections (2) and (3) of section 40** of this Act, the Commissioner shall be the Chairman of every New Zealand committee. 5

(3) The Chairman of a New Zealand committee, or any person lawfully acting in the Chairman's place, shall, in respect of any matter before that committee, have a deliberative vote only. 10

(4) As soon as any New Zealand committee is established, the Commissioner shall inform the Chief Executive Officer of the Vocational Training Council, who may at any time appoint an advisor to that committee and inform the Commissioner accordingly; and any such advisor may, unless that committee 15 requests otherwise, attend any meeting of that committee and speak to any matter before it, but shall not be entitled to vote.

(5) Notwithstanding **subparagraphs (i) and (ii) of subsection (1) (a)** of this section—

(a) Where the organisations concerned agree, a New Zealand 20 committee shall have only 3 employer members and 3 worker members:

(b) Where a New Zealand committee, in the opinion of the Commissioner,—

(i) Is established as the successor to 2 or more New 25 Zealand committees; or

(ii) Has had its scope extended to a relevant industry for which some other New Zealand committee formerly existed,—

the Commissioner may authorise that committee to 30 have 5 employer members and 5 worker members, for the period of 3 years from the date of its establishment or, as the case requires, from the extension concerned.

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(6) The organisations nominating members of a New Zealand committee shall make all reasonable efforts to ensure that at least half the members of that committee nominated by those organisations are persons who either are or have at some time been engaged as employers or workers (as the case requires) 40 in the industry concerned.

New

(6) The organisations nominating members of a New Zealand committee shall make all reasonable efforts to ensure that—

5 (a) At least half the members of that committee nominated by those organisations are persons who either are or have at some time been engaged as employers or workers (as the case requires) in the industry concerned; and

10 (b) Subject to **paragraph (a)** of this subsection, the members of that committee nominated by those organisations reflect, so far as is possible, the ethnic and sexual composition of the New Zealand workforce.

(7) Organisations of employers or workers that nominate members of a New Zealand committee may nominate a person
15 to act as alternate for them; and while attending any meeting of that committee from which any of the members whose alternate that person is is absent, that person shall be deemed to be a member of that committee.

(8) The quorum for any meeting of a New Zealand committee
20 shall be—

(a) Five voting members if that committee has only 3 employer members and 3 worker members; and

(b) Six voting members in every other case.

(9) Subject to **subsection (8)** of this section, the decision of a
25 New Zealand committee on any matter shall be the decision of a majority of the members of that committee present at a meeting of that committee and voting on that matter.

(10) Every nominated member of a New Zealand committee
30 shall be appointed for a term of 3 years, and may from time to time be reappointed.

(11) If any organisations of employers or workers on whose nomination members of a New Zealand committee are appointed fail or neglect to nominate a person to be appointed to any vacancy, the Commissioner may, after consulting those
35 organisations, appoint any person the Commissioner thinks fit to that vacancy.

(12) Any nominated member of a New Zealand committee may, by notice in writing to the Commissioner, resign from that committee.

40 (13) Where the organisations by which a member of a New Zealand committee was nominated give the Commissioner written notice that they withdraw that member's nomination, that member's office shall thereupon become vacant.

(14) The Commissioner may, after consultation with the organisations by which any member of a New Zealand committee was nominated, remove that member from office for absence, neglect of duty, or other sufficient reason.

(15) The powers of a New Zealand committee shall not be affected by any vacancy in its membership. 5

29. Objectives and functions of New Zealand committees—(1) The objectives of every New Zealand committee shall be, in relation to the industry in respect of which it was established, the establishment and maintenance 10 of training patterns and conditions of employment for apprentices that will ensure that there are available in the long term such numbers of skilled persons, with such levels and kinds of skill, as is desirable for the satisfactory functioning of that industry at a level appropriate to the social and economic 15 needs of New Zealand and its people.

(2) The functions of every New Zealand committee shall be, in relation to the industry in respect of which it was established,—

(a) Generally to promote the effective and efficient training 20 and welfare, of apprentices:

(b) To keep itself as fully informed as possible concerning, and to offer such advice and assistance as it thinks fit to any person or body offering, or proposing to offer, any course of instruction or training that, in 25 the opinion of the committee, may lead or be regarded as leading to training by way of apprenticeship:

(c) To apply to the Court for apprenticeship orders, and recommend to the Court what each order should 30 contain:

(d) In the light of all relevant information available to it, from time to time to assess the extent to which it is attaining its objectives, and, to the extent that assessment shows to be necessary or desirable, to devise, 35 and recommend for inclusion in apprenticeship orders, provisions as to—

- (i) Skills to be taught and acquired; and
 - (ii) Patterns of training and conditions of employment; and 40
 - (iii) Desirable levels of performance,—
- that may facilitate the attainment of those objectives:

- (e) Where it appears to the committee that there may in the short term be any deficiencies in the numbers of skilled workers available, or in the skills and levels of skill of those workers, to devise, and recommend for inclusion in apprenticeship orders, either or both of the following:
- (i) Modified systems of apprenticeship training;
 - (ii) Special conditions, for specified periods and groups of apprentices;
- (f) To promote opportunities for persons with special needs to undertake apprenticeship training;
- (g) *(On the recommendation of the Director-General of Education,)* To approve specified employer training schools for the conduct of specified block courses for apprentices; but no New Zealand committee shall approve any such school unless the Director-General of Education has so recommended:
- (h) To establish and maintain effective communication with other organisations involved in the training of apprentices:
- (i) Such other functions as are conferred on it by or under this Act or any other enactment.
- (3) In performing its functions under this Act, a New Zealand committee shall have power—
- (a) On application by any party to a contract or proposed contract for a reduction in its term, by reason of the previous experience, qualifications, or age, of the apprentice or proposed apprentice, or for any other reason, to set a reduced term for that contract;
 - (b) In respect of any individual contract or proposed contract, to approve any other variation in the application of the relevant apprenticeship order; and in that case that order shall apply as varied;
 - (c) To delegate to any local committee the exercise of its powers under **paragraph (a) or paragraph (b)** of this subsection in respect of all or any of the following matters:
 - (i) Skills to be taught and acquired;
 - (ii) Pre-entry qualifications;
 - (iii) Term of contract;
 - (iv) Wages;
 - (v) Manner of completion of contract;
 - (d) Subject to **subsection (4)** of this section, to establish one or more subcommittees from among its members:

(e) To delegate to any subcommittee established under **paragraph (d)** of this subsection, or to the Commissioner, the exercise or performance of any of its powers and functions other than its powers of delegation under this Act. 5

(4) Every subcommittee established under **subsection (3) (d)** of this section shall contain equal numbers of employer and worker members.

(5) A New Zealand committee shall, before making any recommendation to the Court, obtain such indications (if any) 10 as it thinks fit of the views of any persons or organisations who or that, in its opinion, may be concerned with the matters to which that recommendation relates.

30. Court may make apprenticeship orders—(1) From time to time, as it thinks necessary or desirable, the Court may, 15 on the application of any New Zealand committee (or the Commissioner acting in place of any disestablished New Zealand committee),—

(a) Make an order for the whole of New Zealand prescribing training patterns, wages, and conditions of employ- 20 ment for apprentices in any industry for which that committee or, as the case requires, any New Zealand committee is or was established:

(b) Cancel or amend any such order.

(2) Any apprenticeship order may contain provisions that do 25 not apply to the whole of New Zealand.

(3) The Court may of its own motion, on or after making or amending any apprenticeship order, make any necessary consequential amendments to any other apprenticeship orders.

(4) Without limiting the generality of **subsection (1) (a)** of this 30 section, it is hereby declared that any apprenticeship order may do all or any of the following things in respect of the industry concerned:

(a) Prescribe skills to be taught and acquired and, where appropriate, desirable levels of performance in those 35 skills:

(b) For the purpose of meeting likely short-term needs for skills and skilled workers, set special conditions, applicable—

(i) To such apprentices; and 40

(ii) For such period—
as it thinks fit:

- (c) For the purpose of creating the maximum number of opportunities for the employment of apprentices, and taking into account—
- 5 (i) The previous experience of employers in training apprentices; and
 - (ii) Whether or not persons directly responsible for the training of apprentices (otherwise than at a technical institute) have attended appropriate courses of training or are otherwise suitable instructors; and
 - 10 (iii) The range of work, and facilities, employers can offer; and
 - (iv) Any arrangements for participation in secondment, joint contracts, apprenticeship to industry, or group apprenticeship, that may increase the ability or capacity of employers to train apprentices; and
 - 15 (v) The numbers of apprentices currently employed, the extent to which they have progressed towards the completion of their contracts, and, where desirable levels of apprentice performance have been set in any existing or former apprenticeship order relating to that industry, the extent to which those levels have been and are being attained; and
 - 20 (vi) The number of skilled workers who are or might be involved in the training of apprentices; and
 - 25 (vii) Any other matters the Court thinks appropriate,—
set guidelines for assessing the training capacity of employers:
- (d) Require apprentices to sit examinations:
 - 30 (e) Set pre-entry standards for apprentices:
 - (f) Prescribe a probationary period (not exceeding 3 months) from the commencement of apprentices' contracts:
 - (g) Taking into account training patterns, desirable levels of performance in practical skills and formal examinations, and any other matters it thinks fit, determine the manner in which and conditions subject to which contracts may be completed:
 - 35 (h) Require apprentices to attend, whether during normal working hours or not, specified courses at Technical Institutes or other institutions approved by the Director-General of Education for the purpose:
 - 40

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- (i) Require, in respect of apprentices required by that order to attend block courses, or to attend classes or courses in substitution for block courses,—
- (i) That those apprentices be paid on the basis that the total amount or proportion of the week for which they are required to attend those classes or courses is equivalent to the corresponding amount or proportion of their normal working week: 5
- (ii) That those apprentices are not to be required to attend at any of their places of employment during any week when, under a requirement under **subparagraph (i)** of this paragraph, their attendance at those classes or courses is equivalent to a full normal working week: 10 15
- (iii) That those apprentices are not to be required to attend at any of their places of employment on any day or in any week for any period in excess of the period remaining after taking account of an equivalent period calculated under a requirement under **subparagraph (i)** of this paragraph: 20

- (j) Require apprentices to undertake tuition by correspondence:
- (k) Require employers, apprentices, or both, to maintain records of the progress of apprentices in their training. 25

New

- (4A) Where any apprenticeship order contains a requirement under **subsection (4) (h)** of this section, the following provisions shall apply to every apprentice to whom that order applies:
- (a) The requirement for attendance at those classes or courses for a week, for a day or during part of a day shall be deemed to be attendance at that apprentice's place of employment for the normal working week, the normal working day or the same number of hours in the normal working day; and 30 35
- (b) That apprentice shall be paid for such attendance as if that apprentice had worked that apprentice's normal working hours (excluding overtime); and
- (c) That apprentice shall not be required to attend at that apprentice's place of employment during that week, that day, or for a number of hours which is greater than the remaining number of hours in that normal working day as the case may be. 40

(5) Every apprenticeship order shall apply to every apprentice and employer in the industry concerned, and to the employment of every such apprentice, according to its tenor; and, except as provided in this Act, shall be binding on every such apprentice and employer accordingly.

(6) Any apprenticeship order may provide for either or both of the following matters:

(a) The application to the employment of apprentices in the industry concerned, in whole or in part, and with or without any variation, of any conditions contained in an award relating to that industry:

(b) The determination of the wages payable to apprentices employed in the industry concerned by reference to wages for the time being payable under any award relating to that industry.

(7) Provision may be made under **subsection (6)** of this section—

(a) By reference to one or more awards in force at the time the apprenticeship order concerned is made, whether or not those awards are in force in every locality in which apprentices to whom that order applies may be employed:

(b) To the effect that if any award concerned is amended, or if any new award is substituted for it, the apprenticeship order concerned shall be interpreted by reference to the amended or substituted award for the time being in force.

Local Apprenticeship Committees

31. Establishment of local committees—(1) One or more organisations of employers, and one or more organisations of workers, in one or more relevant industries may jointly apply to the appropriate District Commissioner for the establishment in respect of a specified locality of a local apprenticeship committee for that industry or those industries.

(2) Subject to **subsection (3)** of this section, where a District Commissioner is satisfied, in respect of any application under **subsection (1)** of this section, that—

(a) No local committee exists in respect of the locality concerned for any of the industry or industries concerned; and

(b) The applicant organisations are, respectively, most representative of employers and workers in that locality in that industry or those industries,—

that District Commissioner shall establish a local committee for that industry or those industries in respect of that locality.

(3) Where an application under **subsection (1)** of this section relates to a locality that includes a District and some other area, or relates to matters covered by more than one apprenticeship order, the District Commissioner concerned shall refer to the relevant New Zealand committee or committees through the Commissioner—

(a) That application; and

(b) A statement of that District Commissioner's opinion as to the extent to which the establishment of a local committee in respect of that locality would assist in achieving the objectives of apprenticeship training,— and shall refuse to establish a local committee if that New Zealand committee fails or refuses, or those New Zealand committees fail or refuse, to recommend that that District Commissioner do so.

(4) The Court may, on the application of the appropriate District Commissioner or any interested person or organisation, disestablish a local committee, or extend or reduce the limits of the locality in respect of which it is established.

32. Review of existing local committees—Every District Commissioner shall from time to time, and at least every 6 years, review each local committee of which that District Commissioner is Chairman; and where that District Commissioner considers that,—

(a) If considering an application for the establishment of that committee, that District Commissioner would refuse it; or

(b) Circumstances have so altered that that committee is no longer capable of performing its functions satisfactorily as it is at present constituted; or

(c) Any organisations that nominate members of that committee are no longer adequately representative of the employers or workers concerned; or

(d) The locality in respect of which, or industry for which, that committee is established is no longer appropriate; or

(e) The size of that committee is no longer appropriate; or

(f) Any organisations that nominate members of that committee have ceased to support it,—

that District Commissioner shall, after consultation with the organisations concerned, advise the Commissioner accordingly; and, if, after consultation with the national organisations concerned, the Commissioner so directs, that District Commissioner shall disestablish that committee and, where appropriate, attempt to arrange the establishment of another local committee in its place.

33. District Commissioner may have powers and functions of local committees—

(1) Where there is no local committee established for any District, or any part of any District, in respect of a relevant industry, the District
5 Commissioner of that District shall have and may exercise and perform all the powers and functions of a local committee for that industry in respect of that District or part.

(2) The appropriate District Commissioner shall have and may exercise and perform, in respect of—

10 (a) Any contract, approval of the date of commencement of whose antecedent agreement for apprenticeship was given under **section 9 (2)** of this Act; and

(b) The parties to that contract,—
all the powers and functions that the appropriate local
15 committee would have if that approval had been given under **section 9 (1)** of this Act.

34. Membership of local committees—

(1) Subject to **subsection (4)** of this section, every local committee shall
20 comprise—

(a) Subject to **subsection (6)** of this section, the following
members, appointed by the District Commissioner:

(i) One member nominated by the organisations of
employers concerned:

25 (ii) One member nominated by the organisations
of workers concerned:

(b) The appropriate District Commissioner.

(2) Subject to **subsections (3) and (4)** of **section 42** of this Act,
the District Commissioner concerned shall be the Chairman of
every local committee and all its subcommittees.

30 (3) The Chairman of a local committee or any of its
subcommittees, or any person lawfully acting in the Chairman's
place, shall, in respect of any matter before that committee or
subcommittee, have a deliberative vote only.

35 (4) The organisations concerned (*may jointly*) jointly, or any
of them after consultation with the others, may recommend
to the appropriate New Zealand committee or committees,
through the appropriate District Commissioner, that a local
committee should have 2 or 3 employer members and worker
members; and where that New Zealand committee or those
40 New Zealand committees so recommends or recommend, that
local committee shall comprise that number of nominated
members, and that District Commissioner shall appoint that
number of members accordingly.

(5) In making any decision under **subsection (4)** of this section, New Zealand committees shall have regard to—

(a) The extent (if any) to which a local committee of the size recommended is likely to be able to perform its functions more efficiently and effectively than a committee with only 2 nominated members; and 5

(b) The likely ability of the organisations concerned to nominate the number of suitable members recommended.

(6) Organisations shall nominate for appointment to local committees persons who have current trade knowledge and, whenever possible, practical experience, directly relevant to the industry concerned. 10

(7) Organisations of employers or workers that nominate members of a local committee may nominate a person to act as alternate for one or more of them; and while attending any meeting of that committee from which the member, or any of the members, whose alternate that person is is absent, that person shall be deemed to be a member of that committee. 15

(8) The quorum for any meeting of a local committee shall be the District Commissioner concerned, one employer member, and one worker member. 20

(9) Subject to **subsection (8)** of this section, at any meeting of a local committee, the decision of that committee on any matter shall be the decision of a majority of the members of that committee present at that meeting and voting on that matter. 25

(10) A unanimous decision of the members of any local committee, reached by telephone or otherwise howsoever, shall also be a decision of that committee.

(11) Every nominated member of a local committee shall be appointed for a term of 3 years, and may from time to time be reappointed. 30

(12) If any organisations of employers or workers on whose nomination members of a local committee are appointed fail or neglect to nominate a person to be appointed to any vacancy on that committee, the District Commissioner concerned may, after consulting those organisations, appoint any person that District Commissioner thinks fit to that vacancy. 35

(13) Any nominated member of a local committee may, by notice in writing to the District Commissioner concerned, resign from that committee. 40

(14) Where the organisations by which a member of a local committee was nominated give the District Commissioner concerned written notice that they withdraw that member's nomination, that member's office shall thereupon become vacant. 45

(15) The District Commissioner concerned may, after consultation with the organisations by which any member of a local committee was nominated, for absence, neglect of duty, or other sufficient reason, with the consent of the
5 Commissioner, refuse to reappoint to, or remove that member from, office.

(16) The powers of a local committee shall not be affected by any vacancy in its membership.

(17) As soon as a local committee is established, the District
10 Commissioner concerned shall inform the Director-General of Education, who may from time to time appoint an advisor to that committee and inform that District Commissioner accordingly; and *(whenever so requested by the committee or subcommittee concerned,)* any such advisor may attend any
15 meeting of the local committee concerned, or any of its subcommittees, and speak to any matter before it, but shall not be entitled to vote.

35. Certain local committees to establish subcommittees—

(1) Subject to **subsection (2)** of this section,
20 every local committee that has more than 2 nominated members shall establish and maintain one or more subcommittees from among its members.

(2) A subcommittee may be established in respect of—

(a) Part of the locality in respect of which the local com-
25 mittee concerned is established; or

(b) Part of the industry for which the local committee con-
cerned is established; or

(c) Both;—

30 but every local committee that has more than 2 nominated members shall so establish so many subcommittees that there is established in respect of each part of that locality a subcommittee for each part of that industry.

(3) Every subcommittee established under **subsection (1)** of this section shall comprise the District Commissioner concerned,
35 one employer member, and one worker member.

(4) Subject to **subsection (5)** of this section, every employer member and worker member of a local committee who is not a member of that committee's subcommittee shall, respectively, be the deputy of the employer member or worker member
40 of that subcommittee; and while attending any meeting of that subcommittee from which the member whose deputy that member is is absent, shall be deemed to be a member of that subcommittee.

(5) Where 2 deputies of any nominated member of a subcommittee of a local committee attend any meeting of that subcommittee from which the member whose deputy they are is absent, the District Commissioner shall decide which of them is to be deemed to be a member of that subcommittee. 5

(6) The quorum for a meeting of any subcommittee of a local committee shall be all 3 members.

(7) At any meeting of a subcommittee of a local committee, the decision of that subcommittee on any matter shall be the decision of a majority of the members of that subcommittee 10 present at that meeting and voting on that matter.

(8) A unanimous decision of the members of any subcommittee of a local committee, reached by telephone or otherwise howsoever, shall also be a decision of that subcommittee. 15

36. Objectives of local committees and their subcommittees—The objectives of every local committee, and every subcommittee of a local committee, shall be, in the locality or part of a locality, and in relation to the industry or part of an industry, in respect of and for which it is established, 20 to attempt to ensure—

- (a) Adequate employment opportunities for apprentices:
- (b) Continuity of contracts:
- (c) High standards of apprenticeship training.

37. Functions of local committees that have no subcommittees—The functions of a local committee that has only 2 nominated members shall be, in the locality and in relation to the industry in respect of and for which it was established,—

- (a) To promote the benefits of training apprentices to individual employers: 30
- (b) To assist employers to improve the training they provide for apprentices:
- (c) To provide to apprentices such guidance and counselling as is likely to assist their acquisition of skills: 35

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| <p>(ca) To promote the taking up of apprenticeships by members of groups that are under-represented (in relation to the sexual and ethnic composition of the New Zealand workforce) in the workforce of that industry, 40 and by persons with special needs:</p> |
|--|

- (d) Where appropriate, in association with Industry Training Boards or other organisations, to encourage, whether through award schemes or otherwise, the recognition of high standards of training afforded by employers or achieved by apprentices:
- 5 (e) To assist all appropriate agencies to provide information about apprenticeship to teachers and pupils in schools:
- 10 (f) To encourage employers to offer, whether individually or jointly, to provide training opportunities for apprentices:
- (g) To make visits to places of work and maintain a close liaison with employers and apprentices:

New

- 15 (ga) To visit technical institutes in its area that offer courses relating to the industry concerned and familiarise itself with those courses:
- (h) To give employers and apprentices as much assistance as is possible to preserve the continuity of apprenticeship contracts:
- 20 (i) To give the appropriate District Commissioner all practicable assistance and advice in the exercise and performance of that District Commissioner's powers and functions:
- 25 (j) To make recommendations to the appropriate New Zealand committee concerning apprenticeship to industry:
- (k) Where so required by the appropriate New Zealand committee, to supervise apprenticeship to industry schemes approved by that committee:
- 30 (l) *(On the request of the appropriate District Commissioner, to advise that)* To advise the appropriate District Commissioner on the training capacity of any employer:
- 35 (m) To assess the training capacity for any employer in respect of whom the appropriate District Commissioner is satisfied that the normal guidelines should be exceeded:
- (n) On the request of the parties to a contract or any of them, to consider any problem arising out of that contract and to advise all those parties on it:
- 40 (o) To authorise an employer to withhold for a specified period an increase in wages to which an apprentice would otherwise be entitled:

- (p) To order that any period during which an increase is, under **paragraph (o)** of this subsection, authorised to be withheld shall be deemed not to be included in the term of the contract concerned:
- (q) Such other functions as are conferred on local committees or on it by or under this Act or any other enactment. 5

38. Functions of other local committees and their subcommittees—(1) There shall be deemed to have been delegated to every subcommittee of a local committee by that local committee, and to be incapable of performance by that local committee, in the locality or part, and in relation to the (*industry or part of an industry*) industry, in respect of and for which that subcommittee was established, the following functions: 15

- (a) The functions specified in **paragraphs (l) to (n) of section 37** of this Act for local committees that have only 2 nominated members:
- (b) (*To exercise and perform all*) The exercise and performance of all the powers and functions delegated to that local committee by the appropriate New Zealand committee: 20
- (c) All the functions of that local committee under **sections 9, 11 to 13, and 15**, of this Act:
- (d) Such other functions as are conferred on subcommittees of local committees or on it by or under this Act or any other enactment. 25

(2) Notwithstanding that those functions are also vested in that local committee, a subcommittee of any local committee shall have and may perform, in the locality or part, and in relation to the industry or part of an industry, in respect of and for which that subcommittee was established, all the functions specified in **paragraphs (a) to (i) of section 37** of this Act for local committees that have only 2 nominated members. 30

(3) Subject to **subsection (1)** of this section, a local committee that has more than 2 nominated members shall have all the functions of a local committee that has only 2 nominated members. 35

(4) The performance by a subcommittee of a local committee of any function of that local committee the performance of which is deemed under **subsection (1)** of this section to have been delegated to that subcommittee shall be as valid and effectual as if that function had been conferred directly on that subcommittee by this Act. 40

(5) In the performance of its functions, a subcommittee of a local committee shall have all the powers of that local committee.

5 **39. Local committees and subcommittees to maintain contact with workplaces**—So far as is possible, every local committee, and every subcommittee of a local committee, shall exercise and perform its powers and functions in, and in close contact with, the workplaces in respect of which it has those powers and functions.

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New

15 **39A. Contact with local committee to be through local office of Department**—Where pursuant to this Act any application or notice is required to be made or given to a local committee or a subcommittee of a local committee, that application or notice shall be effected by making or giving it to the appropriate district office of the Department.

Commissioners of Apprenticeship

20 **40. Commissioner of Apprenticeship**—(1) There shall from time to time be appointed under the State Services Act 1962 a Commissioner of Apprenticeship.

(2) The Commissioner may delegate to any officer of the Department, either unconditionally or subject to any conditions the Commissioner thinks fit, all or any of the Commissioner's powers and functions under this Act (other than this power of delegation); and subject to the conditions (if any) subject to which was delegated, any officer to whom any such power or function is delegated under this subsection may exercise or perform it as if it had been conferred directly by this Act and not by delegation.

30 (3) Where—

(a) The office of Commissioner is vacant; or

(b) The Secretary is satisfied that the Commissioner is, through illness, absence, or other sufficient reason, unable to exercise and perform the Commissioner's powers and functions under this Act,—

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the Secretary may, either unconditionally or subject to any conditions the Secretary thinks fit, authorise any officer of the Department to exercise and perform all or any of the Commissioner's powers and functions under this Act; and subject to the conditions (if any) subject to which any officer authorised under this subsection to exercise or perform it was

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so authorised to exercise or perform that power or function, that officer may exercise or perform it as if it had been conferred directly by this Act and not by authorisation.

(4) The fact that any officer of the Department exercises or performs any power or function of the Commissioner shall be conclusive proof of that officer's authority to do so; and no person shall be concerned to enquire whether that authority was acquired by delegation or authorisation, or whether the occasion for the delegation or authorisation concerned had not arisen or has ceased.

41. Functions of Commissioner—The functions of the Commissioner shall be—

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(a) As Chairman of every New Zealand committee, to assist New Zealand committees in the attainment of their objectives, and the performance of their functions, under this Act:

New

(a) To chair every New Zealand committee and assist it in the attainment of its objectives, and the performance of its functions, under this Act:

(b) Such other functions as are conferred on the Commissioner by or under this Act or any other enactment.

42. District Commissioners of Apprenticeship—

(1) Subject to **subsection (2)** of this section, there shall from time to time be appointed under the State Services Act 1962 such number of District Commissioners of Apprenticeship as is necessary for the purposes of this Act.

(2) Every District Commissioner shall be appointed in respect of one or more areas specified by the Secretary in that behalf; and the Secretary may from time to time specify an amended area or areas for any District Commissioner.

(3) A District Commissioner may delegate to any officer of the Department, either unconditionally or subject to any conditions the District Commissioner thinks fit, all or any of the District Commissioner's powers and functions under this Act (other than this power of delegation); and subject to the conditions (if any) subject to which it was delegated, any officer

to whom any such power or function is delegated under this subsection may exercise or perform it as if it had been conferred directly by this Act and not by delegation.

(4) Where—

- 5 (a) The office of District Commissioner for any District is vacant; or
- (b) The Secretary is satisfied that any District Commissioner is, through illness, absence, or other sufficient reason, unable to exercise and perform all that District Commissioner's powers and functions under this Act,—
- 10 the Secretary may, either unconditionally or subject to any conditions the Secretary thinks fit, authorise any officer of the Department to exercise and perform all or any of the powers and functions of that District Commissioner under this Act;
- 15 and subject to the conditions (if any) subject to which any officer authorised under this subsection to exercise or perform it was so authorised to exercise or perform that power or function, that officer may exercise or perform it as if it had been conferred directly by this Act and not by authorisation.
- 20 (5) The fact that any officer of the Department exercises or performs any power or function of a District Commissioner shall be conclusive proof of that officer's authority to do so; and no person shall be concerned to enquire whether that authority was acquired by delegation or authorisation, or
- 25 whether the occasion for the delegation or authorisation concerned had not arisen or has ceased.

43. Functions of District Commissioners—The functions of a District Commissioner shall be, in relation to that District Commissioner's District,—

- 30 (a) To promote, by visits to employers and potential employers and otherwise, the creation and maintenance of training and employment opportunities for apprentices:
- (b) To administer contracts of apprenticeship:
- 35 (c) To assist local committees in the attainment of their objectives and the performance of their functions under this Act:
- (d) In accordance with guidelines contained in the appropriate apprenticeship orders, to assess, periodically
- 40 review, and maintain appropriate records of assessments and reviews of, the training capacities of employers and potential employers in relevant industries:

- (e) To assess, periodically review, and maintain appropriate records of assessments and reviews of, the training capacities of employers in industries that are not relevant industries who wish to engage persons as apprentices: 5
- (f) Such other functions as are conferred on District Commissioners or that District Commissioner by or under this Act or any other enactment.

General

44. Remuneration of committee members—There shall 10
be paid to nominated members of New Zealand committees and local committees, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 15 1951; and the provisions of that Act shall apply accordingly as if every such committee, and every subcommittee of a local committee, were a statutory Board within the meaning of that Act.

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45. Provisions contained in awards—Subject to subsections (6) and (7) of section 30 of this Act,—

(a) No provision purporting to relate to apprentices shall be made in any award; and

(b) Every such provision, whether the award concerned was 25 made before, on, or after the commencement of this Act, is hereby declared to be, and always to have been, void and of no effect.

New

45. Provisions contained in awards—(1) Subject to 30 subsections (6) and (7) of section 30 of this Act,—

(a) No provision shall be made in any award that relates to any system of training of employees (whether described as apprentices or not) in a relevant industry that exhibits most or all of the characteristics of 35 apprenticeship; and

(b) Subject to subsection (2) of this section, every such provision, whether the award was made before, on, or after the commencement of this Act, is hereby declared to be void and of no effect. 40

New

(2) Every provision to which **subsection (1) (a)** of this section applies that applied or applies to any employee before the 1st day of October 1984 shall continue to apply to that employee
5 to the same extent as if it had been validly inserted in the award concerned.

46. Employer of apprentices to keep wages and time book—(1) Every employer of apprentices shall at all times keep a record (called the wages and time book) showing, in respect
10 of each apprentice employed by that employer, the following particulars:

- (a) Name:
- (b) Date of birth:
- (c) Date of commencement of contract or, as the case
15 requires, agreement for apprenticeship:
- (d) Kind of work upon which usually employed:
- (e) Number of hours employed, and starting and finishing times, each day:
- (f) Days employed each week:
- 20 (g) Total number of hours employed since the date referred to in **paragraph (c)** of this subsection, as at the end of each week:
- (h) Wages paid each week:
- (i) Such other particulars as are prescribed.

25 (2) An employer or former employer of apprentices shall keep, and keep open at all times for inspection by the Commissioner, the appropriate District Commissioner, or any Inspector,—

- 30 (a) Any wages and time book for the time being in use; and
- (b) Every such book that was at any time in use during the preceding 6 years.

47. Copy of apprenticeship order to be exhibited—Every employer of an apprentice, and every employer to whom any apprentice employed by any other employer is for the time
35 being seconded,—

- 40 (a) Shall ensure that, while that apprentice is employed in any premises occupied by that employer, there is affixed and kept affixed in some conspicuous place in those premises, where it may easily be read by that apprentice, a copy of the appropriate apprenticeship order (if any) and all its amendments; and

- (b) Where required to do so by the appropriate District Commissioner or an Inspector, in substitution for, or in addition to, any copy of an apprenticeship order and its amendments exhibited in premises occupied by that employer, ensure that there is affixed and kept affixed such a copy in some other place in those premises specified in that behalf by that District Commissioner or Inspector. 5

48. Breaches of Act, recovery of money, etc.—(1) Every person commits a breach of this Act who— 10

- (a) Stipulates for, demands, or accepts any premium (however described) for agreeing to—
- (i) Apply under **section 9** of this Act for the approval of a date of commencement for an agreement for apprenticeship; or 15
 - (ii) Execute a proposed contract; or
 - (iii) Return a duly executed proposed contract to any District Commissioner; or
 - (iv) Terminate a contract under **section 17 (3)** of this Act: 20
- (b) Fails to comply with or acts in contravention of any apprenticeship order, order of the Court under this Act, or order of a New Zealand committee, local committee, or subcommittee of a local committee:
- (c) Induces or procures any party to a contract to commit a breach of this Act, or otherwise incites, instigates, aids, or abets a breach of this Act: 25

New

- (ca) Without reasonable cause delays or obstructs any other person exercising or attempting to exercise any right conferred on that other person by **section 49** of this Act: 30

- (d) Fails to comply with, or acts in contravention of, any provision of this Act or any regulations made under this Act. 35

(2) Proceedings for a breach of this Act shall be taken in the same manner as proceedings for a breach of an award (*not being a collective agreement registered under the Industrial Relations Act 1973 or an agreement filed under section 141 of that Act*); and all the provisions of (*that Act*) the Industrial Relations Act 1973 relating to the enforcement of such awards shall, as far as they are applicable and with the necessary modifications, apply accordingly. 40

- (3) Without affecting other remedies for the recovery of money payable under a contract, proceedings for the recovery of any such money may be taken in the same manner as proceedings under the Industrial Relations Act 1973 for the recovery of money due to a worker under an award (not being an agreement filed under section 141 of that Act); and all the provisions of that Act relating to the recovery of such money shall, as far as they are applicable and with the necessary modifications, apply accordingly.
- 5 (4) Subject to **subsection (5)** of this section, all proceedings for a breach of this Act shall be taken by the appropriate District Commissioner or an Inspector.
- (5) Any party to a contract may take proceedings in respect of a breach of it.
- 15 (6) Every employer who commits a breach of this Act shall be liable to a penalty not exceeding \$500, and, where that breach is a continuing one, to a further penalty not exceeding \$100 for every day or part of a day on which that breach has continued.
- 20 (7) Every person (not being an employer) who commits a breach of this Act under **subsection (1) (c)** of this section shall be liable to a penalty not exceeding \$500.
- (8) Every person (not being an employer) who commits a breach of this Act (not being a breach under **subsection (1) (c)** of this section) shall be liable to a penalty not exceeding \$100, and, where that breach is a continuing one, to a further penalty not exceeding \$10 for every day or part of a day on which that breach has continued.
- 25

49. Rights of entry, etc.—(1) In this section, “relevant apprentice”—

30

- (a) In relation to the Commissioner, means any apprentice;
- (b) In relation to a District Commissioner, means any apprentice for the time being employed within any of that District Commissioner’s Districts;
- 35 (c) In relation to any member of a New Zealand committee, means an apprentice to whom any part of an apprenticeship order made on the application of that committee applies;
- (d) In relation to any member of a local committee, means an apprentice for the time being employed within the area in respect of which, and the industry for which, that committee was established;
- 40 (e) In relation to an Inspector, means any apprentice.

(2) The Commissioner, any District Commissioner, any *(member of a New Zealand or local committee, and any Inspector, may, for the purpose of ascertaining the extent to)* Inspector, and any group of persons who are all members of, and together form either a duly constituted subcommittee of a New Zealand committee or more than half of a quorum of a New Zealand committee, a local committee, or a subcommittee of a local committee, may, for the purpose of ascertaining the extent to which this Act is being complied with,— 5

- (a) At all reasonable times enter any premises where a relevant apprentice is believed to be employed: 10
 - (b) Make of an employer of any relevant apprentice such inquiries as seem appropriate in relation to the training, progress, and welfare of that apprentice:
 - (c) Require an employer of any relevant apprentice to supply any specified information in that employer's possession that is necessary or desirable for the due administration of this Act. 15
- (3) Every employer shall—
- (a) Answer to the best of that employer's ability all inquiries made of that employer under **subsection (2) (b)** of this section; and 20
 - (b) Supply all information required to be supplied under **subsection (2) (c)** of this section.

50. Regulations—The Governor-General may from time to time, by Order in Council, make regulations providing for any matters that are contemplated by or necessary for giving full effect to this Act or for its due administration. 25

51. Transitional provisions relating to local committees—(1) **Sections 31** and **34** of this Act shall apply as if no local committees were in existence at the commencement of this Act; and local committees may be established accordingly. 30

(2) Where any local committee is, after the commencement of this Act, established in respect of an industry, and for a locality, in respect of which and for which there exists a local committee established under the Apprentices Act 1948,— 35

- (a) If that latter local committee was established in respect of a larger locality or industry, its scope shall thereupon be deemed to be diminished accordingly: 40
- (b) If that latter local committee was not established in respect of a larger locality or industry, it shall thereupon be deemed to be dissolved.

(3) If not earlier dissolved, every local committee established under the Apprentices Act 1948 shall be deemed to be dissolved on the 1st day of April 1984.

(4) Subject to **subsections (2) and (3)** of this section, every local
5 committee established under the Apprentices Act 1948 that
was in existence immediately before the commencement of
this Act shall continue in existence as if it had been established
under this Act as a local committee with only 2 nominated
members; and this Act (except for **section 35**) shall apply to it
10 accordingly.

52. Other transitional provisions—(1) Every New Zealand
committee established under the Apprentices Act 1948 that
was in existence immediately before the commencement of
this Act shall continue in existence as if it had been established
15 under this Act; and this Act shall apply to it accordingly.

(2) Subject to **subsections (3) and (4)** of this section, every
apprenticeship order under the Apprentices Act 1948 that was
in force immediately before the commencement of this Act
shall continue in force as if it had been made under this Act;
20 and this Act shall apply to it, and it may be cancelled or varied,
accordingly.

(3) No provision in any apprenticeship order under the
Apprentices Act 1948 that was in force immediately before the
commencement of this Act, being a provision relating to the
25 training capacity of employers, shall have any effect after that
commencement; and, until an apprenticeship order is made in
respect of the industry concerned specifying guidelines for the
assessment of the training capacity of employers in that
industry, District Commissioners shall, after appropriate
30 consultation with the appropriate local committees, (*have an
absolute discretion to*) assess, in the light of the matters required
by **section 30 (4) (c)** of this Act to be taken into account in the
setting in apprenticeship orders of guidelines for the assessment
of the training capacity of employers, the training capacity of
35 employers in that industry.

(4) On the commencement of this Act, every provision
contained in an apprenticeship order under the Apprentices
Act 1948 that was in force immediately before that
commencement, being a provision of a kind that there is no
40 power under this Act to include in an apprenticeship order,
shall cease to have effect and shall be deemed to have been
cancelled.

(5) Every New Zealand committee shall, as soon as is possible after the commencement of this Act and in any case not later than the 30th day of September 1985,—

(a) Take all such steps as are necessary to ascertain what recommendations it would make to the Court in respect of the making of a new apprenticeship order in respect of the industry in respect of which it was established if no such order were in existence; and

(b) Recommend to the Court the amendment of the existing apprenticeship order accordingly.

(6) Every contract of apprenticeship registered under the Apprentices Act 1948 that was in force immediately before the commencement of this Act shall continue in force as if—

(a) It had been registered under this Act; and

(b) It had been in force since it was consented to under section 19 of the Apprentices Act 1948;—

and this Act shall apply to it and to the parties to it accordingly.

(7) Where, before the commencement of this Act, an application was made under section 19 of the Apprentices Act 1948 but no contract of apprenticeship was registered, that application shall be deemed to be an application under **section 9 (1)** of this Act made on the commencement of this Act; and this Act shall apply to it accordingly.

(8) Where, immediately before the commencement of this Act, an apprenticeship order under the Apprentices Act 1948 was in force in respect of an industry for which there existed no New Zealand committee, this Act shall apply as if—

(a) There had then been such a committee in existence; and

(b) On that commencement,—

(i) That committee had been disestablished; and

(ii) The Commissioner had been authorised by the Court to exercise and perform that committee's powers and functions under this Act for a period of 2 years from that commencement,—

under **section 27** of this Act.

Struck Out

53. Amendments and repeals—(1) The Industrial Relations Act 1973 is hereby amended—

(a) By inserting in section 49 (1) (as substituted by section 3 of the Industrial Relations Amendment Act 1977), after the word “agreement”, the words “, but not including any matter under the Apprenticeship Act 1982”;

Struck Out

- (b) By inserting in section 231, after the words “or apprenticeship”, the words “(not being a contract within the meaning of the Apprenticeship Act 1982)”.
- 5 (2) The First Schedule to the Labour Department Act 1954 (as substituted by section 2 (2) of the Labour Department Amendment Act 1979 and thereafter from time to time amended) is hereby further amended by omitting the words “The Apprentices Act 1948”, and substituting the words “The
- 10 Apprenticeship Act 1982”.
- (3) The enactments specified in the Schedule to this Act are hereby repealed.

New

- 53. Amendments and repeals**—(1) The enactments
- 15 specified in the **First** Schedule to this Act are hereby amended in the manner indicated in that Schedule.
- (2) The enactments specified in the **Second** Schedule to this Act are hereby repealed.

(SCHEDULE)*New*

SCHEDULES	
FIRST SCHEDULE	
ENACTMENTS AMENDED	
Enactment	Amendment
The Labour Department Act 1954	By omitting from the First Schedule (as substituted by section 2(2) of the Labour Department Amendment Act 1979 and from time to time thereafter amended) the item "The Apprentices Act 1948", and substituting the item "The Apprenticeship Act 1982".
The Companies Act 1955	By omitting from section 226 the word "When", and substituting the words "Subject to sections 19 (6A) and 21 (5A) of the Apprenticeship Act 1982, when".
The Insolvency Act 1967	By omitting from section 32 the word "Upon", and substituting the words "Subject to sections 19 (6A) and 21 (5A) of the Apprenticeship Act 1982, upon". By repealing section 83, and substituting the following section: "83. Bankruptcy discharges liability of bankrupt and certain employees— (1) Subject to subsections (2) and (3) of this section, where at the time any person (hereafter in this section referred to as the bankrupt) is adjudicated bankrupt, the bankrupt employs any person who is not an apprentice within the meaning of the Apprenticeship Act 1982 (hereafter in this section referred to as the employee) under any written contract of employment that provides for the training of the employee in any profession or occupation, that adjudication shall, as between the bankrupt and the employee, be a complete discharge of their respective liabilities under that contract. "(2) If the employee so requests, the bankrupt shall, at the cost of the employee, assign the employee to any person specified by the employee in that behalf, and any service of the employee with that person shall, to the extent of the time of that service, be deemed to have been good service under the contract between the bankrupt and the employee.

*New*FIRST SCHEDULE—*continued*

ENACTMENTS AMENDED

Enactment	Amendment
The Insolvency Act 1967 — <i>continued</i>	“(3) If, after the bankrupt has obtained a discharge, the Court is of the opinion that the bankrupt is in a position to accept the services of the employee for the remainder of the term of the contract between them, the Court may, on the application of the employee, order the term of the training to be completed from a date specified in the order, upon the same terms as originally provided.”
The Industrial Relations Act 1973	By inserting in section 49 (1) (as substituted by section 3 of the Industrial Relations Amendment Act 1977), after the word “agreement”, the words “but not including any matter under the Apprenticeship Act 1982”. By inserting in section 231, after the words “or apprenticeship”, the words “(not being a contract within the meaning of the Apprenticeship Act 1982)”.

SECOND SCHEDULE

ENACTMENTS REPEALED

Section 53 (3)

- 1948, No. 22—The Apprentices Act 1948
 1951, No. 79—The Fees and Travelling Allowances Act 1951: So much of the Second Schedule as relates to the Apprentices Act 1948
 1954, No. 21—The Labour Department Act 1954: So much of the Third Schedule as relates to the Apprentices Act 1948
 1955, No. 63—The Companies Act 1955: Section 474 (5) (a)
 1957, No. 43—The Apprentices Amendment Act 1957
 1961, No. 34—The Apprentices Amendment Act 1961
 1964, No. 77—The Apprentices Amendment Act 1964

Struck Out

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| 1967, No. 54—The Insolvency Act 1967: Section 83 |
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- 1967, No. 58—The Apprentices Amendment Act 1967
 1968, No. 69—The Apprentices Amendment Act 1968
 1970, No. 8—The Apprentices Amendment Act 1970
 1970, No. 137—The Age of Majority Act 1970: So much of the First Schedule as relates to the Apprentices Act 1948
 1972, No. 41—The Apprentices Amendment Act 1972
 1976, No. 75—The Apprentices Amendment Act 1976
 1977, No. 108—The Industrial Relations Amendment Act 1977: So much of the Second Schedule as relates to the Apprentices Act 1948
 1977, No. 143—The Apprentices Amendment Act 1977