

ACCESS TRAINING SCHEME BILL

EXPLANATORY NOTE

THIS Bill provides for the establishment of a training scheme to be known as the Access Training Scheme and for the establishment of Regional Employment and Access Councils with the functions of implementing the scheme within their respective regions. The principal object of the Scheme is to promote and assist (financially and otherwise) the provision of courses for the training of unemployed persons and others in vocational and personal skills required for employment or for more specialised vocational training.

Clause 1 relates to the Short Title.

Clause 2 provides that the Bill is to come into force on 1 October 1987 and expire with the close of 30 September 1992.

Clause 3 defines terms used in the Bill.

PART I

ACCESS TRAINING SCHEME

Clause 4 provides for the establishment of the Access Training Scheme by the Minister and defines the principal object of the Scheme.

Clause 5: Subclause (1) provides that the Minister is, in framing the Scheme from time to time, to set objectives for each Regional Employment and Access Council and the rules and guidelines that are to govern its operations.

Subclause (2) empowers the Minister to modify such objectives, rules, or guidelines from time to time.

Clause 6 provides that the Minister is, in the exercise of the powers conferred by *clauses 4 and 5*, to consult with the Minister of Education and the Minister of Maori Affairs.

PART II

REGIONAL EMPLOYMENT AND ACCESS COUNCILS

Clause 7: Subclause (1) empowers the Minister to establish Regional Employment and Access Councils.

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Subclause (2) provides that there are to be such number of Councils as the Minister from time to time determines and that each Council is to be constituted in respect of such region as the Minister from time to time determines.

Clause 8 provides for the composition of each Council. Each Council is to consist of not less than 8 nor more than 12 members. Two or 3 members are to be appointed to represent employers' organisations, and an equal number to represent trade union organisations. There is to be at least one woman and one member of the Maori community on each Council appointed after consultation with the Minister of Women's Affairs and the Minister of Maori Affairs respectively. If the Minister is of the opinion that the population of the region of any Council includes a significant number of persons of Pacific Island origin, one member of that Council is to be appointed after consultation with the Minister of Pacific Island Affairs.

Clause 9 provides for the term of office of the members of each Council.

Clause 10 relates to vacation of office by the members of each Council.

Clause 11 provides for the appointment of a Chairperson for each Council and for the annual election by each Council of a Deputy Chairperson. The Chairperson is to be appointed by the Minister after consultation with the Minister of Education and the Minister of Maori Affairs.

Clause 12 provides for the appointment of deputies for the members of each Council.

Clause 13 sets out the procedure to be followed at meetings of Councils.

Clause 14 provides for the payment of remuneration and travelling allowances to the members of each Council in accordance with the Fees and Travelling Allowances Act 1951.

Clause 15 empowers a Council to appoint committees to assist it in the performance and exercise of its functions and powers. A person may be appointed to such a committee whether or not the person is a member of the Council. The clause provides that members of such a committee are to be paid remuneration and travelling allowances in accordance with the Fees and Travelling Allowances Act 1951.

Clause 16 provides for the delegation of a Council's functions and powers.

Clause 17 protects members of a Council or committee of a Council from personal liability for acts or omissions in good faith in pursuance or intended pursuance of the measure.

PART III

IMPLEMENTATION OF SCHEME

Clause 18 sets out the functions of each Council. These are to implement the Scheme within the Council's region and for that purpose—

- (a) To establish needs and priorities for training within its region:
- (b) To determine applications made to the Council by persons or bodies (whether public or private) seeking approval to provide training under the Scheme:
- (c) To make with persons or bodies approved by the Council as training providers contracts or arrangements with respect to the nature of the training and the public funding and other assistance to be provided for it:

- (d) To promote and encourage participation in the Scheme and to disseminate information in respect of the Scheme and the training available under it:
- (e) To co-ordinate its operations with those of other agencies involved in employment and training:
- (f) To promote and encourage public awareness of employment and training schemes and opportunities generally:
- (g) To perform such other functions relating to training and employment as the Minister considers appropriate.

The clause provides, at *subclause (3)*, that each Council may exercise all such powers as are reasonably necessary or expedient for the performance of its functions.

The clause provides, at *subclause (4)*, that a Council shall not have any power to borrow money.

Clause 19 provides that each Council shall, in performing and exercising its functions and powers, seek to attain the objectives and observe the rules and guidelines set for it in the Scheme, and give effect to any other directions communicated to it from time to time by the Minister. Under the clause, the Minister may also, if satisfied that it is necessary to do so, appoint a person to supervise the operations of a Council.

Clause 20 provides for the making of contracts by Councils. Any contract made by a Council is to be deemed to be made on behalf of the Crown. All such contracts are to be in writing signed by 2 or more persons (being members of the Council or a committee of the Council) authorised to do so by the Council.

Clause 21 provides that the money required for the implementation of the Scheme and otherwise for the purposes of the measure is to be paid out of money appropriated by Parliament for the purpose. Under *subclause (2)*, the Department of Labour is required to implement without further inquiry any decision of a Council requiring the making of any payments and to make the payments out of money available for the Scheme.

PART IV

AMENDMENTS TO OTHER ACTS

Clause 22 amends the First Schedule to the Labour Department Act 1954 so that this measure is added to the list of Acts to be administered by the Department of Labour.

Clause 23 amends Part I of the First Schedule to the Local Authorities (Members' Interests) Act 1968 so that the provisions of that Act relating to conflict of interest apply to the members of Regional Employment and Access Councils. The clause does, however, propose a further amendment to exclude Regional Employment and Access Councils from the operation of section 3 of that Act. Section 3 would otherwise have the effect of disqualifying from the membership of a Council any person who has an interest in contracts made by the Council that involve payments exceeding \$25,000 in a financial year. In the case of Regional Employment and Access Councils, it is proposed that their membership will include persons directly involved in businesses and it may be appropriate that all or some of the businesses participate in the Access Training Scheme as training providers. Section 6 of the Local Authorities (Members' Interests) Act 1968 will operate to prohibit any such member from discussing or voting on any matter in which the member has a pecuniary interest.

Clause 24 amends Part II of the First Schedule to the Ombudsmen Act 1975 so that the provisions of that Act apply to Regional Employment and Access Councils. This amendment has the additional effect of applying the provisions of the Official Information Act 1982 to information held by Regional Employment and Access Councils.

Hon. P. B. Goff

ACCESS TRAINING SCHEME

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A BILL INTITULED

5 **An Act to provide for the establishment of the Access Training Scheme to assist unemployed persons and others to secure employment or further vocational training; and for that purpose to provide for the establishment of Regional Employment and Access Councils and to define their functions and powers**

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

10 **1. Short Title**—This Act may be cited as the Access Training Scheme Act 1987.

2. Commencement and expiry—(1) This Act shall come into force on the 1st day of October 1987.

(2) This Act shall expire with the close of the 30th day of September 1992.

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

“Council” means a Regional Employment and Access Council established by the Minister under section 7 of this Act: 5

“Department” means the Department of Labour:

“Financial year” means a period of 12 months ending with the 31st day of March: 10

“Minister” means the Minister of Employment:

“Scheme” means the Access Training Scheme established by the Minister under section 4 of this Act.

PART I

ACCESS TRAINING SCHEME 15

4. Access Scheme—(1) The Minister may establish a training scheme to be known as the Access Training Scheme.

(2) The principal object of the Scheme shall be to promote and assist (financially and otherwise) the provision of courses for the training of unemployed persons and others in vocational and personal skills required for employment or for more specialised vocational training. 20

5. Scheme to set objectives, rules, and guidelines for each Council—(1) The Minister shall, in framing the Scheme from time to time, set objectives that each Regional Employment and Access Council is to seek to attain and the rules and guidelines that are to govern its operations. 25

(2) The Minister may from time to time modify the objectives, rules, or guidelines set for a Council under subsection (1) of this section. 30

(3) The Minister shall notify each Council, in writing, of the objectives, rules, and guidelines from time to time applying to that Council under this section.

6. Minister to consult—The Minister shall, in exercising the powers conferred by sections 4 and 5 of this Act, consult with the Minister of Education and the Minister of Maori Affairs. 35

PART II

REGIONAL EMPLOYMENT AND ACCESS COUNCILS

5 **7. Regional Employment and Access Councils**—(1) The Minister may establish councils to be known as Regional Employment and Access Councils.

(2) There shall be such number of Councils as the Minister may from time to time determine, and each Council shall be established in respect of such region as the Minister may from time to time determine.

10 (3) The establishment or disestablishment of a Council and any modification of the region of a Council shall be notified in the *Gazette*.

8. Membership of Councils—(1) Each Council shall consist of not less than 8 nor more than 12 members appointed by the
15 Minister, of whom—

(a) Two or 3 shall be appointed after consultation with the central organisation of employers within the meaning of the Industrial Relations Act 1973; and

20 (b) An equal number shall be appointed after consultation with the central organisation of workers within the meaning of the Industrial Relations Act 1973.

(2) In exercising the powers of appointment conferred by subsection (1) of this section, the Minister shall—

25 (a) Ensure that the membership of each Council includes—
(i) At least one woman appointed after consultation with the Minister of Women's Affairs; and

(ii) At least one member of the Maori community appointed after consultation with the Minister of Maori Affairs; and

30 (b) If of the opinion that the population of the region of any Council includes a significant number of persons of Pacific Island origin, ensure that the membership of that Council includes one person appointed after consultation with the Minister of Pacific Island
35 Affairs.

9. Term of office of members—(1) Each member of a Council shall be appointed for such term not exceeding 3 years as the Minister shall specify in the instrument appointing the member.

40 (2) Each member of a Council may be reappointed from time to time.

(3) Where the term for which a member of a Council has been appointed expires, that member, unless sooner vacating or removed from office under **section 10** of this Act, shall continue to hold office, by virtue of the appointment for the term that has expired, until— 5

- (a) That member is reappointed; or
- (b) A successor to that member is appointed; or
- (c) That member is informed in writing by the Minister that that member is not to be reappointed and that a successor to that member is not to be appointed. 10

10. Vacation of office—(1) Any member of a Council may at any time be removed from office by the Minister for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister.

(2) Any member of a Council may at any time resign from office by writing addressed to the Minister. 15

(3) The powers of a Council shall not be affected by any vacancy in its membership.

11. Chairperson and Deputy Chairperson—(1) The Minister shall, after consultation with the Minister of Education and the Minister of Maori Affairs, appoint one of the members of each Council to be the Chairperson of the Council. 20

(2) Each council shall, at its first meeting in each financial year, elect one of its members to be the Deputy Chairperson of the Council. 25

(3) The Deputy Chairperson of each Council elected in each financial year shall hold office as such until the Deputy Chairperson's successor is elected or the Deputy Chairperson sooner ceases to be a member of that Council.

(4) If a vacancy occurs in the office of Deputy Chairperson of a Council before the expiration of the period for which the Deputy Chairperson has been elected, the Council shall, at its first meeting after the vacancy occurs, elect some other member of the Council to be the Deputy Chairperson for the remainder of the financial year. 30 35

(5) Subject to this Act, the Deputy Chairperson of a Council shall have and may exercise all the powers and duties of the Chairperson during the Chairperson's absence or incapacity or while there is a vacancy in the office of the Chairperson.

(6) No acts done by a person holding office as the Deputy Chairperson of a Council in that person's capacity as such deputy, and no acts done by that Council while a Deputy 40

Chairperson is acting as such deputy, shall in any proceedings be questioned on the ground that the occasion for the Deputy Chairperson so acting had not arisen or had ceased.

5 **12. Deputies of members**—(1) The Minister may from time to time appoint a deputy to act for a member during any period for which the member is incapacitated by absence, illness, or other cause from performing the duties of office.

(2) A deputy appointed under this section shall, while so acting, be deemed to be a member of the Council.

10 (3) No acts done by a deputy appointed under this section, and no acts done by the Council while a person is acting as such deputy, shall in any proceedings be questioned on the ground that the occasion for the person so acting had not arisen or had ceased.

15 **13. Meetings of Councils**—(1) Meetings of a Council shall be held at such times and places as the Council or the Chairperson appoints.

20 (2) The Chairperson of a Council may at any time call a special meeting of the Council, and shall call a special meeting when requested to do so in writing by any 2 members of the Council.

(3) At any meeting of a Council the quorum shall be half the members if the total membership is even and a majority of the members if the total membership is odd.

25 (4) The Chairperson of a Council shall preside at all meetings of the Council at which the Chairperson is present and, in the absence of the Chairperson, the Deputy Chairperson shall preside.

30 (5) In the absence of the Chairperson and the Deputy Chairperson from a meeting of a Council, the members present shall appoint one of their number to be the Chairperson for the purposes of that meeting.

35 (6) No acts done by a Chairperson appointed under subsection (5) of this section, and no acts done by the Council while a person is acting as such Chairperson, shall in any proceedings be questioned on the ground that the occasion for the person so acting had not arisen or had ceased.

40 (7) All questions arising at a meeting of a Council shall be decided by a majority of votes of the members present and voting and the presiding member shall, in the event of an equality of votes, have a casting vote.

(8) A decision concurred in by a majority of the members of a Council shall be a valid and effective decision of the Council notwithstanding that it is not made at a meeting of the Council.

(9) Subject to this Act, each Council may regulate its own procedure.

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14. Remuneration and travelling allowances—(1) Each Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) The members of each Council shall be paid remuneration by way of fees, salary or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

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15. Councils may appoint committees—(1) A Council may from time to time appoint, alter, discharge, and reconstitute committees consisting of such number of persons as it thinks fit to assist the Council in the performance and exercise of its functions and powers under this Act.

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(2) A person may be appointed by a Council to be a member of a committee under this section whether or not the person is a member of the Council.

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(3) Subject to this Act and any directions of the Council, every committee appointed by a Council under this section may regulate its own procedure.

(4) The members of a committee appointed under this section shall be paid remuneration by way of fees, salary or allowances, and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

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16. Delegation—(1) A Council may from time to time delegate in writing to any member or committee of the Council any of the functions or powers of the Council other than this power of delegation.

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(2) Any delegation under this section may be made subject to such conditions and restrictions as the Council thinks fit, and may be made either generally or in respect of any particular matter or class of matters.

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(3) Every member or committee purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

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(4) Every delegation under this section shall be revocable at will.

(5) No delegation under this section shall prevent the performance or exercise of any function or power by the Council making the delegation.

17. Personal liability of members, etc.—No member of a Council or of a committee of a Council shall be personally liable for any act done or omitted by the member or by the Council or committee in good faith in pursuance or intended pursuance of this Act.

PART III

IMPLEMENTATION OF SCHEME

18. Functions and powers of Councils—(1) The functions of each Council shall be to implement the Scheme within its region, and for that purpose—

- (a) To establish needs and priorities for training within its region:
- (b) To determine applications made to the Council by persons or bodies (whether public or private) seeking approval to provide training under the Scheme:
- (c) To make with persons or bodies approved by the Council as training providers arrangements or contracts with respect to the nature of the training and the public funding and other assistance to be provided for it:
- (d) To promote and encourage participation in the Scheme and to disseminate information in respect of the Scheme and the training available under it:
- (e) To co-ordinate its operations with those of other agencies involved in training and employment:
- (f) To promote and encourage public awareness of training and employment schemes and opportunities generally:
- (g) To perform such other functions relating to training and employment as the Minister considers appropriate.

(2) Subject to this Act, each Council may exercise all such powers as are reasonably necessary or expedient for the performance of its functions.

(3) A Council shall not have any power to borrow money.

19. Direction of Councils' operations—(1) Each Council shall, in performing and exercising its functions and powers,—

- (a) Seek to attain the objectives set for it in the Scheme; and

(b) Observe the rules and guidelines set for it in the Scheme and give effect to any other directions in writing given to it from time to time by the Minister.

(2) The Minister may, after consultation with the Minister of Education and the Minister of Maori Affairs, if satisfied that it is necessary to do so, appoint a person to supervise the operations of a Council, and, in that event, the Council shall, on being notified in writing of the appointment, give effect to any directions of the person so appointed. 5

(3) An appointment made under subsection (2) of this section shall not affect the power of the Minister to direct the operations of the Council concerned and may be revoked by the Minister at any time. 10

20. Making of contracts by Councils—(1) Every contract made by a Council in the performance of its functions under this Act shall be deemed to be made on behalf of the Crown. 15

(2) Every contract made by a Council shall be in writing signed on behalf of the Council by 2 or more persons (being members of the Council or a Committee of the Council) authorised to do so by the Council. 20

(3) A document purporting to have been executed on behalf of a Council in accordance with this section shall, in the absence of proof to the contrary, be deemed for all purposes to have been duly executed on behalf of the Council.

21. Funding for Scheme, etc.—(1) The money required for the implementation of the Scheme and otherwise for the purposes of this Act shall be paid out of money appropriated by Parliament for the purpose. 25

(2) Where a Council makes a decision requiring the payment of any money, the decision shall be implemented by the Department without further inquiry and payments shall be made out of money available for the Scheme. 30

PART IV

AMENDMENTS TO OTHER ACTS

22. Amendment to Labour Department Act 1954—The First Schedule to the Labour Department Act 1954 (as substituted by section 2(2) of the Labour Department Amendment Act 1979) is hereby amended by inserting, in its appropriate alphabetical order, the following item: 35

“The Access Training Scheme Act 1987.” 40

23. Amendments to Local Authorities (Members' Interests) Act 1968—(1) Section 3 of the Local Authorities (Members' Interests) Act 1968 is hereby amended by adding the following subsection:

5 “(5) This section shall not apply in relation to a Regional Employment and Access Council established under the Access Training Scheme Act 1987.”

(2) Part I of the First Schedule to the Local Authorities (Members' Interests) Act 1968 is hereby amended by inserting, 10 in its appropriate alphabetical order, the following item:

“Regional Employment and Access Councils	1987, No. 00—The Access Training Scheme Act 1987.”
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24. Amendment to Ombudsmen Act 1975—Part II of the First Schedule to the Ombudsmen Act 1975 is hereby amended by inserting, in its appropriate alphabetical order, the following item:

15 “Regional Employment and Access Councils.”