

[AS REPORTED FROM THE GOVERNMENT ADMINISTRATION  
COMMITTEE]

*House of Representatives, 10 March 1987.*

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. Stan Rodger*

**STATE SERVICES CONDITIONS OF EMPLOYMENT  
AMENDMENT**

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A BILL INTITULED

**An Act to amend the State Services Conditions of Employment Act 1977 in relation to State enterprises, and to make consequential amendments to other enactments**

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No. 92—2

Price \$1.50  
incl. GST \$1.65

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

**1. Short Title and commencement**—(1) This Act may be cited as the State Services Conditions of Employment Amendment Act (1986) 1987, and shall be read together with and deemed part of the State Services Conditions of Employment Act 1977\* (hereinafter referred to as the principal Act). 5

(2) Sections 14 to 16 of this Act shall come into force on the 1st day of April 1987. 10

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the day after the date on which it receives the Governor-General's assent.

**2. Interpretation**—In this Act—

“Enterprise unit”, in relation to a State enterprise, means 15  
a class or group of employees determined by the Board of that State enterprise, in its capacity as employing authority, with the agreement of the appropriate service organisation, to be an enterprise unit, whether or not there is any similarity between 20  
the respective duties of the employees in that class or group:

“State enterprise” means an organisation that is named in the First Schedule to this Act.

*Application of Principal Act* 25

**3. Application of principal Act to State enterprises**— Subject to the succeeding provisions of this Act, the principal Act shall apply, with any necessary modifications, to each State enterprise.

**4. “Employing authority”, “occupational class”, and “service organisation” defined**—(1) For the purposes of the application of the principal Act to a State enterprise,— 30

(a) The term “employing authority”, when used in that Act, means the Board of that State enterprise; and

(b) The term “occupational class”, when used in that Act, 35  
means a class or group of employees determined by the Board of that State enterprise, in its capacity as

employing authority, with the agreement of the appropriate service organisation, to be an occupational class; and includes an enterprise unit:

5 (c) The term “service organisation”, when used in that Act, means any organisation that may from time to time be recognised under this Act by the Minister of State Services in respect of any particular group or particular groups of employees of that State enterprise, after consultation by the Minister with  
10 any recognised organisation or organisations that may be affected.

(2) Nothing in section 5 of the principal Act or in subsection  
15 (1) (c) of this section shall prevent the Minister of State Services from recognising as service organisations different organisations for different groups of employees of a State enterprise.

**5. Public Sector Tribunal to act as Single Service Tribunal for State enterprises**—For the purposes of the application of the principal Act to a State enterprise, the Public  
20 Sector Tribunal, in respect of that State enterprise, shall be deemed to be, and to have all the jurisdiction, powers, and duties of, a Single Service Tribunal.

**6. Conditions of employment that may be prescribed**—  
25 In addition to the conditions of employment specified in section 7 of the principal Act, the Board of a State enterprise, in its capacity as employing authority, may, with the agreement of the appropriate service organisation, prescribe any other condition of employment that is not inconsistent with any other Act.

30 **7. Objectives relating to prescribing of conditions of employment**—(1) Nothing in sections 9 to 12 of the principal Act (as substituted by section 5 (1) of the State Services Conditions of Employment Amendment Act (No. 2) 1985) shall apply to State enterprises.

35 (2) In prescribing under the principal Act conditions of employment of its employees, a Board of a State enterprise, in its capacity as employing authority, shall seek to prescribe conditions of employment that will enable the State enterprise to compete effectively for the employees that it requires in  
40 order to achieve its principal objective in terms of section 4 of the State-Owned Enterprises Act 1986.

(3) Without limiting the generality of **subsection (2)** of this section, in prescribing conditions of employment under the principal Act, the Board of a State enterprise shall have regard to the following matters:

- (a) The cost of providing the conditions of employment 5  
being prescribed:
- (b) The need to be fair to its employees:
- (c) The need to reflect differences in market conditions, in  
individual performance, skill, and experience, and in  
organisational requirements. 10

**8. Role of State Services Co-ordinating Committee—**

(1) Nothing in sections 14, 22 (1) (b), 22 (3), 23 (3), and 23 (4) (b) of the principal Act shall apply in respect of State enterprises.

(2) The obligations imposed on employing authorities by sections 22 (2), 23 (2), and 24 (2) (a) of the principal Act shall, in 15  
relation to the Board of a State enterprise in its capacity as employing authority, be read as an obligation to consult with the State Services Commission.

(3) Section 22 (4) of the principal Act shall, in relation to State enterprises, be read as if the words “or to the Co-ordinating 20  
Committee, as the case may require,” were omitted.

**9. Jurisdiction of Higher Salaries Commission excluded—**(1) Nothing in sections 20 and 21 of the principal Act shall apply in respect of State enterprises.

(2) Notwithstanding anything in the Higher Salaries 25  
Commission Act 1977, the Higher Salaries Commission established by section 4 of that Act shall have no jurisdiction in respect of the remuneration payable to any employees of any State enterprise.

**10. Annual general reviews not to apply to State 30  
enterprises—**Nothing in sections 31 and 32 of the principal Act shall apply in respect of State enterprises.

**11. Application of Part VIII—**Every State enterprise shall be a person to whom Part VIII of the principal Act applies and by whom liability for a penalty may be incurred under 35  
subsection (3) or subsection (5) of section 67, subsection (3) or subsection (4) of section 68, or subsection (3) of section 70 of that Act.

12. **Exclusion of coverage by agreement**—(1) The Board of a State enterprise, in its capacity as employing authority, may from time to time, with the agreement of the appropriate service organisation, prescribe for the purposes of this section  
5 a class or classes of employees of the State enterprise, whether in terms of designation, position, maximum salary or other conditions of employment, or otherwise.

(2) Subject to **subsection (3)** of this section, nothing in the principal Act or in the foregoing provisions of this Act shall  
10 apply to any class of employees of a State enterprise prescribed under **subsection (1)** of this section.

(3) In prescribing conditions of employment for any employees belonging to a class prescribed under **subsection (1)** of this section, the Board of a State enterprise shall have  
15 regard to the matters specified in **subsections (2) and (3) of section 7** of this Act, and shall, before prescribing any such conditions of employment, consult with the State Services Commission.

*Struck Out*

**13. Exclusion of certain contract employees**—(1) Nothing  
20 in the principal Act shall apply in respect of any person employed by a State enterprise on contract to provide specialist advice to that State enterprise.

(2) The Board of a State enterprise shall consult the appropriate service organisation or service organisations,  
25 either generally or in each particular case, before employing any such specialist on contract.

*New*

**13. Exclusion of certain contract employees**—(1) Nothing  
30 in the principal Act shall apply in respect of any employee employed by a State enterprise on contract to provide specialist advice to that State enterprise where—

- (a) An employee with the necessary skills or knowledge is not normally available from within that State enterprise; or  
35 (b) The employee is required for a short-term temporary task.

(2) The Board of a State enterprise shall consult the appropriate service organisation or service organisations,  
40 either generally or in each particular case, before employing any such specialist on contract.

*New*

(3) This section shall not apply to any class of employees of a State enterprise prescribed under section 12 (1) of this Act.

**13A. Apprenticeships preserved**—(1) Every indenture of apprenticeship entered into under the Post Office Act 1959, the State Services Act 1962, or the Coal Mines Act 1979 before the date of the commencement of this section and still subsisting immediately before that date shall, where the apprentice is employed by a State enterprise on that date, continue in force on the same terms and conditions (but subject to any necessary modifications) as if the apprentice had remained with his or her original employer.

(2) In any such case, as from the date on which the apprentice commences employment with the State enterprise, the State enterprise shall be the employer or master for the purposes of the indenture of apprenticeship.

**13B. Industrial Relations Act 1973 amended**—Section 218 of the Industrial Relations Act 1973 is hereby amended by adding, as subsections (2) and (3), the following subsections:

“(2) Subject to subsection (3) of this section, and except as provided by sections 125E, 141, 216, 217, and 233 of this Act or by the special provisions of any other Act, nothing in this Act shall apply to any State enterprise named in the First Schedule to the State Services Conditions of Employment Amendment Act 1987.

“(3) The provisions of section 117 of this Act shall apply to every such State enterprise as if—

“(a) References to the employer were references to the employing authority; and

“(b) References to the union were references to the appropriate service organisation; and

“(c) References to a worker were references to an employee; and

“(d) References to any award or collective agreement were references to a determination.”

*Miscellaneous Amendments*

**14. Amendments relating to the Post Office**—(1) The provisions of the principal Act specified in the first column of

the **Second** Schedule to this Act are hereby amended in the manner indicated in the second column of that Schedule.

(2) The Post Office Act 1959 is hereby amended by repealing Parts XIII to XVI.

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*New*

(3) The enactments specified in the **Third** Schedule to this Act are hereby consequentially repealed.

**15. Principal Act amended in relation to electrical supply**—(1) The First Schedule to the principal Act is hereby amended by repealing clause 1, and substituting the following clause:

“1. The production or supply of electricity, or the operational management of the Electricity Corporation of New Zealand Limited.”

15 (2) Section 16 of the State Services Conditions of Employment Amendment Act 1983 is hereby consequentially repealed.

**16. Coal Mines Act 1979 amended**—(1) The Coal Mines Act 1979 is hereby amended by *(repealing section 118, and substituting)* inserting, after section 118 (as amended by section 3 of the Coal Mines Amendment Act 1985) but before section 118A (as substituted by section 4 of that Act), the following section:

25 “(118) 118AA. **Industrial matters in mines transferred to Coal Corporation of New Zealand Limited**—

*Struck Out*

(1) This section applies to any mine that was previously a State coal mine until it was transferred to the Coal Corporation of New Zealand Limited pursuant to an agreement under section 22 of the State-Owned Enterprises Act 1986.

*New*

<p style="text-align: right;">(1) This section applies to any mine that is the subject of a coal mining licence granted to the Coal Corporation of New Zealand Limited pursuant to Part III or Part IIIA of this Act.</p>	5
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“(2) Notwithstanding anything in section 218 of the Industrial Relations Act 1973, any society of workers employed in any mine to which this section applies may be registered as an industrial union of workers under that Act.

“(3) The Coal Corporation of New Zealand Limited may from time to time enter into an industrial agreement with any industrial union so registered. 10

“(4) Before entering into any industrial agreement or determining any conditions of employment (including rates of remuneration and allowances) for persons employed or engaged in any mine to which this section applies the Corporation shall consult with the State Services Commission. 15

“(5) If any industrial dispute arises between any industrial union so registered and the Corporation, either party may refer it for settlement to the Coal Mines Council in accordance with Part IX of this Act. 20

“(6) Where any society of workmen employed in any mine to which this section applies is not registered pursuant to the foregoing provisions of this section as an industrial union of workers under the Industrial Relations Act 1973, Part IX of this Act shall apply in the case of any industrial dispute that may arise. 25

“(7) In this section, ‘industrial dispute’ does not include a dispute between any union of workers employed in any mine to which this section applies, being a union registered under the Industrial Relations Act 1973, and the Corporation about— 30

“(a) Any matter relating to the compulsory membership of an industrial union of workers by any person; or

“(b) Any matter relating to the conferring on any person, by reason of that person’s membership or non-membership of an industrial union of workers, of— 35

“(i) Any preference in obtaining or retaining employment; or



“(ii) Any preference in relation to terms of employment or conditions of employment or fringe benefits or opportunities for training, promotion, or transfer; or

5           “(iii) Any preference in relation to the formula that will be used to assess compensation for redundancy.”

*New*

10           (1A) Sections 118A (3), 118B, 118R (1) (b), and 118s of the principal Act (as substituted by section 4 of the Coal Mines Amendment Act 1985) are hereby amended by inserting, after the words “State coal mine” wherever they occur, the words “or any mine to which **section 118AA** of this Act applies”.

15           (2) Sections 118D (1), 118E (1), 118E (2), and 118F (as substituted by section 4 of the Coal Mines Amendment Act 1985) are hereby amended by omitting the word “Minister” wherever it occurs, and substituting in each case the words “Coal Corporation of New Zealand Limited”.

20           (3) Section 3 of the Coal Mines Amendment Act 1985 is hereby consequentially repealed.

*New*

**16A. Appeal rights of employees of Post Office—**

25           (1) Notwithstanding anything in this Act or in the Post Office Act 1959, if, immediately before the 1st day of April 1987, an appeal under section 196 of that Act is pending or there is a right to such an appeal in respect of—

          (a) Any penalty imposed under that Act; or

30           (b) Any appointment or promotion to a position that, immediately before that date, existed in the Post Office,—

the provisions of that Act shall continue to apply (and the Post Office Appeal Board shall continue to exist) for the purposes of the appeal as if the employee were still employed in the Post Office.

35           (2) Subject to **subsection (3)** of this section, the decision of the Post Office Appeal Board on any appeal preserved by **subsection (1)** of this section shall be implemented, as far as practicable, in the same manner as it would have been implemented if the employee were still employed by the Post Office.

*New*

(3) If a person becomes an employee of a State enterprise as the result of an appeal preserved by this section, that person shall be deemed to have become an employee of that State enterprise on the 1st day of April 1987; but that person shall not be entitled to receive any remuneration as an employee of that State enterprise in respect of any period during which that person was in fact employed by the Post Office. 5

**16B. Appeal rights of other employees—**

(1) Notwithstanding anything in this Act or in the State Services Act 1962, if, immediately before the 1st day of April 1987, an appeal under the State Services Act 1962 is pending or there is a right to such an appeal, in respect of— 10

(a) A penalty imposed under section 55 or section 57 or section 58 of that Act on a person employed in the Public Service who, immediately after that date, is employed in a State enterprise; or 15

(b) Any appointment or promotion to a position that, immediately before that date, existed in the Public Service but ceased to exist in the Public Service on that date; or 20

(c) Any appointment or promotion to a position continuing, after that date, to be a position in the Public Service, if an employee (being one who was immediately before that date, employed in the Public Service but who, immediately after that date, is employed in a State enterprise) is the appellant or if any such employee has a right of appeal pending— 25

the provisions of Part IV, section 35, and subsections (2) and (3) of section 57 of that Act, so far as they are applicable, shall continue to apply to the employee as if the employee were still employed in the Public Service, and, in the case of an appeal or right of appeal against an appointment or promotion to a position that is no longer in the Public Service, as if the position were still in the Public Service. 30 35

(2) The decision of the State Services Commission on any appeal made to it under section 57 of the State Services Act 1962 and preserved by subsection (1) of this section shall be binding on and enforceable against the appellant as if the appellant were still employed in the Public Service. 40

*New*

(3) Subject to **subsection (4)** of this section, the decision of the Public Service Appeal Board, or, in the case of an appeal under section 57 of the State Services Act 1962, of the State Services  
5 Commission, on any appeal preserved by **subsection (1)** of this section shall be implemented, as far as practicable, in the same manner as it would have been implemented if the employee were still employed in the Public Service.

(4) If a person becomes an employee of a State enterprise as  
10 the result of an appeal preserved by this section, that person shall be deemed to have become an employee of that State enterprise on the 1st day of April 1987; but that person shall not be entitled to receive any remuneration as an employee of the State enterprise in respect of any period during which that  
15 person was in fact employed in the Public Service.

(5) If a person ceases to be employed by a State enterprise as a result of the success of any appeal preserved by this section, that person shall be deemed, without further authority than  
20 this subsection, to have resumed employment in the Public Service.

**17. Expiry**—This Act shall expire with the close of the 31st day of August 1987.

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**SCHEDULES**

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**Section 2****FIRST SCHEDULE**

## STATE ENTERPRISES

Airways Corporation of New Zealand Limited  
 Coal Corporation of New Zealand Limited  
 Electricity Corporation of New Zealand Limited  
 New Zealand Forestry Corporation Limited  
 Government Life Insurance Corporation  
 Government Property Services Limited  
 Land Corporation Limited  
 New Zealand Post Limited  
 Post Office Bank Limited  
 Telecom Corporation of New Zealand Limited

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**Section 14 (1)****SECOND SCHEDULE**

## AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE POST OFFICE

PROVISION	AMENDMENT
Section 2 (1)	By omitting from the definition of the term "branch" the words "the Post Office,". By repealing paragraph (c) of the definition of the term "employing authority". By repealing paragraph (c) of the definition of the term "occupational class". By repealing paragraph (b) of the definition of the term "published"
Section 4	By repealing subsection (3).
Section 13 (2)	By repealing paragraph (c).
Section 18	By repealing the proviso.
Section 49 (1)	By omitting the words " , except the Post Office,".

*New*

THIRD SCHEDULE

Section 14 (3)

REPEALS CONSEQUENTIAL UPON AMENDMENTS TO THE POST OFFICE ACT  
1959

- 1961, No. 94—The Post Office Amendment Act 1961.
- 1962, No. 27—The Post Office Amendment Act 1962: section 8.
- 1963, No. 107—The Post Office Amendment Act 1963: section 3.
- 1965, No. 9—The Post Office Amendment Act 1965: section 7.
- 1967, No. 109—The Post Office Amendment Act 1967.
- 1973, No. 86—The Post Office Amendment Act (No. 2) 1973.
- 1975, No. 98—The Post Office Amendment Act (No. 2) 1975.
- 1977, No. 95—The State Services Conditions of Employment Act 1977: so  
much of the Second Schedule as relates to the Post  
Office Act 1959.
- 1978, No. 24—The Post Office Amendment Act 1978: sections 4 to 9.
- 1980, No. 41—The Post Office Amendment Act 1980: section 4.
- 1982, No. 95—The Post Office Amendment Act (No. 2) 1985.
- 1985, No. 104—The Post Office Amendment Act (No. 2) 1985.