

House of Representatives

Supplementary Order Paper

Tuesday, 30 August 2022

Screen Industry Workers Bill

Proposed amendments for the consideration of the Committee of the whole House

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**

Explanatory note

This Supplementary Order Paper amends the Screen Industry Workers Bill. It proposes amendments to improve the clarity and readability of the Bill by restructuring and relocating various provisions. It also proposes a range of minor policy and drafting clarifications.

The main policy and drafting changes that are proposed are described below.

The following terminology changes are made in places throughout the Bill:

- where appropriate, references to person (which can include a corporate entity) are replaced with references to individual (which means a human being);
- occupation-level collective contracts are now called occupational contracts, and enterprise-level collective contracts are now called enterprise contracts.

Clause 2 is amended to bring *clause 75* (the regulation-making power) into force the day after Royal assent, and otherwise to increase the period between the date of Royal assent and the date of commencement from 28 days to 3 months.

Part 1: Preliminary provisions

The main changes proposed to Part 1 are—

- removing *clause 4*, the overview provision, because it does not add significant value and contains no operative provisions;
- inserting *new clause 11A* to define the term workplace relationship. The bulk of the text of the definition is relocated from *clause 10* (the interpretation provision), but changes are made to provide that a workplace relationship exists between parties to the same occupational contract, and between a worker organisation and an engager, at all times and not just when they are bargaining (*see new clause 11A(e) and (f)*).

Part 1A: Good faith and freedom of association

The clauses that formed *subpart 1 of Part 2* (relating to good faith) are moved into *Part 1A*. *See new clauses 12AA and 12AB* (which were previously *clauses 13 and 15* in *subpart 1 of Part 2*).

Part 2: Individual contracts

New clauses 13 to 18 were previously *clauses 16AAA to 20*. They have been relocated from *subpart 2 of Part 2*, because *Part 2* will no longer be divided into subparts. The following changes are made to the relocated provisions:

- the phrase “individually or in their overall effect” is removed from 3 places in *new clause 15* (previously *clause 16A(3)(c), (4)(b) and (5)(d)*). This will mean the terms in an individual contract must be at least as favourable to workers as the corresponding terms in a collective contract on a term-by-term basis (rather than the contract being overall better for workers):

- the prohibition on retaliatory termination is extended to cover refusal to renew a contract for the 2 reasons set out in *new clause 17(1) and (2)* (previously *clause 18*):
- a penalty is applied for failure to comply with the requirements when varying an individual contract, as well as when entering an individual contract (*see new clause 18*).

Part 3: Collective bargaining

Part 3 has been restructured. *Subpart 1 of Part 3* (provisions about the registration of worker organisations and engager organisations) is moved into *Part 5* because the provisions are administrative in nature. The remaining subparts relate to the following:

- all collective bargaining (*subpart 2*):
- all collective contracts (*subpart 2A*):
- occupational contracts (*subpart 3*):
- enterprise contracts (*subpart 4*).

The main changes that are proposed with respect to the clauses in *Part 3* are set out below.

New clause 32(10) allows for differentiation in the terms of a collective contract.

Clause 34 relates to the duration of collective contracts. What was *clause 32B(4)*, which created a maximum 12-month period for a replacement occupational or enterprise contract to be bargained, is removed. This means that once bargaining has been initiated for a replacement contract, the old one continues to apply until the new one is in force.

Clause 36 has been amended to clarify that the Authority must be satisfied before allowing bargaining to be initiated for an occupational contract that there is at least 1 registered worker organisation and 1 registered engager organisation to participate in bargaining.

Clause 38(3A) is inserted to ensure that if the Employment Relations Authority (the **Authority**) has approved bargaining for an occupational contract, and that bargaining is in progress, no other application to initiate bargaining for that occupational group may be made.

Clause 44, which relates to the removal of a bargaining party, is amended to add a new requirement that the Authority publish bargaining party removal decisions online.

Clause 44AA is new and clarifies that if a decision to remove a bargaining party has the result that there is no longer an engager organisation or no longer a worker organisation, bargaining for the relevant occupational contract ends.

Clause 46, which requires the Authority to assess draft occupational contracts for suitability for ratification after the parties have agreed to the terms, is extended to

clarify that the Authority must also make that suitability assessment after it has fixed terms in the contract under *clause 59B*.

Clause 47(8) is amended to clarify that ratification of an occupational contract requires a simple majority of those who vote, rather than a simple majority of all eligible voters.

Clause 47A was previously *clause 32C*. However, *subclause (2)* is new. It provides that if the worker organisation that conducted the ratification vote becomes deregistered before sending the collective contract to the Ministry of Business, Innovation, and Employment (MBIE), any other signatory party may send the ratified occupational contract to MBIE.

Clause 49A is new. It allows the Authority to add a new signatory party to an occupational contract when it is already in force, but only if there is no longer a signatory party on the same side as the organisation wanting to be added.

Clause 49B contains provisions previously located in *clause 32D* relating to occupational contracts. *Subclause (1)* clarifies that bargaining for a variation of an occupational contract requires at least 1 signatory party from each of the worker and engager sides.

Clauses 49C to 49E, which relate to exemptions from terms in occupational contracts, were previously *clause 33*. However, in addition to splitting the content into 3 provisions, some changes are proposed in the new provisions, as follows:

- the threshold for exemptions is changed from significant disruption to a production or a significant increase in its costs to significant disruption to the production that could not have reasonably been foreseen:
- the factor that determines whether engagers need to seek signatory parties' consent to a less favourable term under *new clause 49D* (as opposed to notifying them about it) is whether the less favourable term is immediately needed:
- there is a new requirement for signatory parties to respond to an exemption application within 14 days, unless the exemption is immediately needed:
- *clause 49C(3)* is new and links the provision to *clause 49G*:
- examples have been removed, to avoid inadvertently limiting the scope of this provision.

Clause 49F was previously *clause 33A*.

Clause 49G is new. It provides that exemptions are still possible, even if signatory parties no longer exist. If any signatory parties exist, their unanimous consent is required for exemptions that are not immediately needed. And if no signatory parties remain, the requirement to seek consent does not apply.

Clause 52 is amended to make it clear that enterprise contracts need to be at least as favourable to workers as an applicable occupational contract on a term-by-term basis, rather than in overall effect.

Clause 53 is amended to provide that ratification of an enterprise contract is not required if the Authority has fixed the terms of the contract.

Clause 53A was previously *clause 32C*.

Clause 54A is amended to clarify that a worker covered by multiple enterprise contracts for the same work, and who chooses which enterprise contract applies, must notify their engager of their choice in writing.

Clause 55A contains content that was previously part of *clause 32D*.

Part 4: Dispute resolution, challenges, reviews, penalties, and offences

The main changes that are proposed to the provisions in *Part 4* are as follows:

- *clauses 59A and 59B*, which relate to final offer arbitration, comprise material that is relocated from *clauses 58(3) and 59(3), (5), (6), and (7)*. However *clause 59B(1)(c)* is new. It reflects the operation of the duties relating to good faith in collective bargaining, by requiring all other terms in a collective contract to have been settled before parties apply to the Authority for disputed terms to be fixed:
- *clause 59C* is a new provision that sets out what happens after the Authority fixes terms in an occupational or enterprise contract. Occupational contracts will still need to be ratified but enterprise contracts will not:
- *clause 61*, relating to the review of decisions, is broadened to ensure that it applies to judicial review of any statutory power exercised under the Act (not just those exercised by the Authority and the Registrar of Screen Industry Organisations):
- *clause 63* is amended to allow—
 - anyone to whom an individual contract applies, and who is affected by a breach relating to that individual contract, to apply for the recovery of a penalty; and
 - anyone to whom a collective contract applies, and who is affected by a breach relating to that contract, to apply for the recovery of a penalty (not just the signatory parties).

Part 5: Miscellaneous provisions and amendments to other Acts

Part 5 contains provisions that have been relocated from earlier in the Bill. The main changes that are proposed with respect to the provisions in this Part are set out below.

Clause 65D (previously *clause 23 in Part 3*) relates to the annual return of members of worker and engager organisations. It has been changed to require the Registrar to register annual member returns (which will enable the Authority to access information in the returns when deciding which registered organisations should be bargaining parties for an occupational contract). *Clause 65D(3)* is new and will allow worker organisations who are also registered unions to allow their annual returns to be shared between the Registrar of Unions and the Registrar of Screen Industry Organisations. (*New clause 77A* makes a corresponding change in the Employment Relations Act 2000.)

Clause 65F is a new provision that gives the Authority certain powers when performing functions other than determination functions, including the power to call for, and take into account, evidence and information, to set its own procedure.

Clause 65G is a new provision that sets out the functions of the chief executive. It is based on section 223AAA(a) of the Employment Relations Act 2000.

Clause 73 (which enables changes to the list of occupational groups in *Schedule 1A* to be made by Order in Council) is amended to add a requirement that, before recommending that an order be made, the Minister must be satisfied that the amendment will not have the effect that work done by a screen production worker does not fall within any occupational group.

Clause 75 is amended to align with the new standard wording for regulation-making provisions. The new standard wording avoids the need to list in the substantive empowering provision every provision in the Bill that contemplates that regulations will be made.

Clause 75A is new and requires the Minister to start a review of the Act before the fifth anniversary of its commencement, and to report on the review to the House of Representatives.

Clause 77B is new. It amends section 137 of the Employment Relations Act 2000 to allow the Authority to issue compliance orders in relation to matters under the Bill.

Schedule 1A sets out occupational groups and is relocated so that it will appear before *Schedule 2*. The content is the same as the content of deleted *Schedule 3*.

Schedule 4, clause 10 is deleted because the content is already covered by *clause 59B(3)*.

Departmental disclosure statement

The Ministry of Business, Innovation, and Employment considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.

The Honourable Michael Wood, in Committee, to propose the amendments shown in the following document.

Hon Michael Wood

Screen Industry Workers Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Screen Industry Workers Act **2020**.

2 Commencement

~~This Act comes into force 28 days after the date of Royal assent.~~

- (1) **Section 75** (which contains regulation-making powers) comes into force on the day after the date of Royal assent.
- (2) The rest of this Act comes into force on the day that is 3 months after the date of Royal assent.

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to provide a workplace relations framework for certain participants in the screen industry.

4 Overview of Act

- (1) ~~This Act is about the employment status of workers in the screen industry. It is also about workers who are contractors in that industry, their conditions of work, and their ability to bargain collectively. Two types of collective contract may be agreed. They are—~~
 - (a) ~~occupation-level collective contracts; and~~
 - (b) ~~enterprise-level collective contracts.~~
- (2) ~~It is divided into 6 Parts.~~
- (3) This Part (**Part 1**) covers the following preliminary matters:
 - (a) ~~the purpose of the Act;~~

- (b) the screen production workers to whom it applies (by reference to their employment status);
 - (e) a prohibition on contracting out of the Act;
 - (ea) the unenforceability of contracts, agreements, or other arrangements preventing screen production workers from raising complaints about bullying, discrimination, or harassment under any enactment;
 - (eb) the disapplying of certain provisions of the Commerce Act 1986 relating to restrictive trade practices;
 - (d) the Act's application to the Crown;
 - (e) transitional, savings, and related provisions;
 - (f) definitions of terms used.
- (3A) **Part 1A** contains provisions that deal with matters relating to freedom of association as those matters relate to persons to whom the Act applies, including providing protection to screen production workers from undue influence relating to joining or belonging to a worker organisation.
- (4) **Part 2** contains 2 subparts.
- (5) **Subpart 1** requires parties to a workplace relationship to act in good faith (*see section 13*).
- (6) **Subpart 2** deals with matters relating to screen production workers' individual contracts, including minimum requirements, a prohibition on retaliatory termination motivated by a worker exercising or proposing to exercise any rights conferred by the contract, and the processes by which disputes relating to individual contracts may be resolved.
- (7) **Part 3** contains 4 subparts.
- (8) **Subpart 1** sets out the process for a society to register as a worker organisation or an engager organisation. This is a precondition to the organisation being able to initiate or participate in collective bargaining or rely on the workplace access provisions in **Part 5**.
- (9) **Subpart 2** contains provisions that apply to all collective bargaining under the Act, whether occupation-level or enterprise-level.
- (10) **Subpart 3** deals with matters that apply particularly to bargaining for occupation-level collective contracts. These contracts apply to all screen production workers who do a particular type of work within the screen industry (for example, writers, directors, game developers, or production/post-production technicians) and all the entities that engage their services. For the purposes of this subpart, the Employment Relations Authority (the **Authority**) is responsible for deciding whether bargaining may be initiated, who the parties to the bargaining may be, and which worker organisation will conduct the ratification vote.

- (11) ~~**Subpart 4** deals with matters that apply particularly to bargaining for enterprise-level collective contracts. These contracts apply to the work specified in the coverage clause of the contract in relation to a particular screen production or a particular entity that engages screen production workers.~~
- (12) ~~**Part 4** contains 2 subparts.~~
- (13) ~~**Subpart 1** relates to dispute resolution processes. The primary problem-solving mechanism is voluntary mediation between parties. However, parties to a dispute may apply to the Authority for facilitation or a binding determination (which the Authority may decline to accept if it considers the dispute would be better settled in another manner). In addition, the Authority may fix terms in a collective contract in certain situations. The Employment Court (the **court**) has a role in respect of challenges to the decisions of the Authority. Judicial review is also available in relation to certain decisions of the Authority or the Registrar of Screen Industry Organisations (referred to in **subsection (16)** below).~~
- (14) ~~**Subpart 2** deals with penalties and offences, with the Authority having full and exclusive jurisdiction to deal with all actions for the recovery of penalties for a breach of any provision of this Act for which a penalty is provided. The court has jurisdiction in relation to offences against **section 65**.~~
- (15) ~~**Part 5** contains 2 subparts.~~
- (16) ~~**Subpart 1** deals with the following matters:~~
- (a) ~~rules for access to workplaces by representatives of worker organisations;~~
 - (b) ~~the Registrar of Screen Industry Organisations, a position established to provide certain administrative functions under the Act;~~
 - (c) ~~redefining the occupational groups set out in **Schedule 3** by Order in Council (for the purposes of occupation-level collective contracts);~~
 - (d) ~~matters in relation to which regulations may be prescribed.~~
- (17) ~~**Subpart 2** contains amendments to the Employment Relations Act 2000.~~
- (18) ~~There are 4 schedules, as follows:~~
- (a) ~~**Schedule 1** provides a transitional provision relating to contracts to which this Act would automatically apply had the contracts been entered into after its commencement;~~
 - (b) ~~**Schedule 2** specifies the screen productions to which this Act does and does not apply;~~
 - (c) ~~**Schedule 3** sets out the occupational groups in relation to which an occupation-level collective contract may apply;~~
 - (d) ~~**Schedule 4** sets out the final offer arbitration process, the dispute resolution mechanism the Authority is required to use to fix 1 or more terms of a collective contract if a dispute in relation to those terms is preventing the bargaining parties from concluding the contract.~~

- (19) ~~This section is only a guide to the general scheme and effect of the provisions referred to in it.~~

5 Employment status of screen production workers determined by this Act

- (1) This Act determines the employment status of ~~a person~~ an individual who falls within the meaning of screen production worker in **section 11**.
- (2) If an individual is a screen production worker who is a party to, or covered by, a written agreement with an engager stating that the ~~person~~ individual is an employee,—
- (a) the agreement is conclusive proof for the purposes of this section that the ~~person~~ individual is an employee of the engager; and
- (b) this Act does not apply to the ~~person~~ individual.
- (3) If an individual is a screen production worker who is not a party to, or covered by, a written agreement with an engager stating that the ~~person~~ individual is an employee,—
- (a) that is conclusive proof for the purposes of this section that the ~~person~~ individual is not an employee of the engager; and
- (b) this Act applies to the ~~person~~ individual.
- (4) To avoid doubt, ~~an individual who is a~~ screen production worker cannot invoke section 6(2) of the Employment Relations Act 2000 to determine whether they are an employee.
- (5) To avoid doubt, section 6 of the Employment Relations Act 2000 determines the employment status of an individual who works in the screen industry but ~~who~~ is not a screen production worker within the meaning of **section 11** of this Act.

6 No contracting out

- ~~(1) The provisions of this Act have effect despite anything to the contrary in any contract, agreement, or other arrangement.~~
- (1) This Act applies despite any contract, agreement, or other arrangement.
- (2) A contract, agreement, or other arrangement is unenforceable to the extent that it is inconsistent with this Act.

6A Prohibition on matters relating to bullying, discrimination, and harassment

- (1) A contract, agreement, or other arrangement between persons must not prevent a screen production worker (or any person acting on their behalf) from raising a complaint of bullying, discrimination, or harassment under this or any other enactment (*see section 18(1)*).
- (2) The contract, agreement, or other arrangement is unenforceable to the extent that it contains such a prohibition.

7 **Exemption from Commerce Act 1986 prohibitions on restrictive trade practices do not apply**

- (1) Nothing in section 27 or 30 of the Commerce Act 1986 applies to—
- (a) anything done by any person for the purposes of collective bargaining for a collective contract in accordance with this Act; or
 - (b) anything done by any person to give effect to a collective contract entered into in accordance with this Act.
- (2) ~~Nevertheless, However, see~~ **section 28** of this Act ~~which~~ prohibits industrial action (within the meaning of that section) during bargaining for a collective contract.

8 **Act binds the Crown**

This Act binds the Crown.

9 **Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms.

10 **Interpretation**

- (1) In this Act, unless the context otherwise requires,—

Authority means the Employment Relations Authority established under section 156 of the Employment Relations Act 2000

bargaining, in relation to bargaining for a collective contract, means all the interactions between the parties ~~to the bargaining~~ that relate to the bargaining, including—

- (a) negotiations that relate to the bargaining; and
- (b) communications or correspondence (between, or on behalf of, the parties before, during, or after negotiations) that relate to the bargaining

chief executive means the chief executive of the department

collective contract—

- (a) ~~means the collection of terms contained in an enterprise-level collective contract or an occupation-level collective occupational contract; and~~
- (b) includes any variation to the terms of that contract

commencement date, in respect of a collective contract, means the date on which the contract comes into force, which is,—

- (a) in respect of an occupational contract, the date calculated in accordance with **section 49(1)**; and
- (b) in respect of an enterprise contract, the date on which the bargaining parties sign the contract (*see* **section 55**)

court means the Employment Court constituted under section 186 of the Employment Relations Act 2000

coverage clause,—

- (a) in relation to an ~~occupation-level collective~~ occupational contract, means the provision in the contract that specifies the occupational group who do the work to which the contract applies;
- (b) in relation to an ~~enterprise-level collective~~ contract, means the provision in the contract that specifies the work to which the contract applies

~~**department** means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act~~

dispute means, as the case may be,—

- (a) any dispute about the interpretation, application, or operation of an individual contract;
- (b) any dispute about the interpretation, application, or operation of a collective contract;
- (c) any problem relating to or arising from bargaining for a collective contract;
- (d) any problem relating to or arising from a workplace relationship

disputed terms has the meaning set out in **section 59A(1)**

engager means a person who engages 1 or more screen production workers (for example, a production company)

engager organisation means an organisation registered under ~~section 23~~ **65C** as an engager organisation

~~**enterprise-level collective contract** means a collective contract the terms of which apply to that applies to, and is enforceable by, the persons specified in section 54~~

individual contract means the contract between a screen production worker and the worker's engager (in relation to the ~~screen production work concerned~~ work to be performed by the worker for the engager)

~~**occupation-level collective occupational contract** means a collective contract the terms of which apply to that applies to, and is enforceable by, the persons specified in section 48~~

occupational group means a category of screen production worker specified in **Schedule 31A**

person in control of the workplace means—

- (a) the person who, at the time at which a request to enter a workplace is made under **section 67**, is in control of the workplace; or
- (b) a representative of that person

Registrar means the Registrar of Screen Industry Organisations appointed under **section 71**

regulations means regulations made under **section 75**

screen production means a record (or any part of it) captured in any medium from which a moving image may be produced for distribution to the public by any means including, without limitation, cinematic exhibition, television broadcast, Internet streaming, or software download

screen production worker or **worker** has the meaning given in **section 11**

worker organisation means an organisation registered under **section 23 65C** as a worker organisation

workplace—

- (a) means—
 - (i) a place at which a screen production worker works from time to time; and
 - (ii) a place to which a screen production worker goes to do work; but
- (b) for the purposes of **sections 66 to 70**, excludes any building or any part of a building to the extent that it is occupied as a residence and is not being used as a production set

workplace relationship means ~~any of the relationships between the following persons: any of the relationships specified in **section 11A**.~~

- ~~(aaa) an engager and an individual bargaining for an individual contract:~~
- ~~(a) a screen production worker and the worker's engager:~~
- ~~(b) a worker organisation and—~~
 - ~~(i) its members who are screen production workers; and~~
 - ~~(ii) any other screen production workers to whom a collective contract may apply and for whom the worker organisation is a bargaining party or signatory party (including workers who are members of an organisation referred to in **subparagraph (iii)**); and~~
 - ~~(iii) any other worker organisation that is bargaining for, or a party to, the same collective contract:~~
- ~~(c) an engager organisation and—~~
 - ~~(i) its members who engage screen production workers; and~~
 - ~~(ii) any other engager to whom a collective contract may apply and for whom the engager organisation is a bargaining party or signatory party (including members of an organisation referred to in **subparagraph (iii)**); and~~
 - ~~(iii) any other engager organisation that is bargaining for, or a party to, the same collective contract:~~

- ~~(d) a worker organisation and an engager organisation bargaining for an occupation-level collective contract;~~
- ~~(e) a worker organisation and an engager bargaining for an enterprise-level collective contract.~~
- (1A) For the purposes of this Act,—
 - ~~(a) an occupation-level collective contract applies to a worker if **section 48(a)** applies to the worker;~~
 - ~~(b) an enterprise-level collective contract applies to a worker if **section 54** (and, as the case may be, **section 54A**) applies to the worker.~~
- (2) **Subsection (3)** applies for the purposes of assisting the interpretation of any provision of this Act that applies 1 or more provisions of the Employment Relations Act 2000, and it does so with any necessary modifications.
- (3) Without limiting the ordinary meaning of that term, **necessary modifications** to a provision include the following:
 - (a) any reference to an employee must be read as if it were a reference to a screen production worker; and
 - (b) any reference to an employer must be read as if it were a reference to an engager; and
 - (c) any reference to any employment agreement must be read as if it were a reference to an individual contract; and
 - (d) any reference to a union must be read as if it were a reference to a worker organisation; and
 - (e) any reference to a collective agreement must be read as if it were a reference to a collective contract.

11 Meaning of screen production worker

- (1) In this Act, **screen production worker** or **worker**—
 - (a) means an individual—
 - (i) who is engaged by a person to contribute to the creation of 1 or more screen productions to which this Act applies (*see* **section 12**); and
 - (ii) who undertakes the work in New Zealand; but
 - (b) excludes any individual who, in relation to the screen production or screen productions,—
 - (i) only provides support services; or
 - (ii) is a volunteer; or
 - (iii) is engaged to do the work by a person that does not primarily engage in work relating to the creation of screen productions.

- (2A) For the purposes of **subsection (1)**, an individual (**I**), is engaged by a person (**P**) if—
- (a) I is engaged directly by P; or
 - (b) I is engaged indirectly through 1 or more interposed persons (for example, a company that I controls in any manner).
- (3) For the purposes of **subsection (1)(b)(iii)**, a person (whether a company, partnership, individual, or other entity) **does not primarily engage in work relating to the creation of screen productions** if the person—
- (a) derived less than 50% of ~~its~~ the person's average annual gross income (within the meaning of section BC 2 of the Income Tax Act 2007) from work relating to the creation of screen productions in the previous 3 financial years; and
 - (b) is not a special purpose vehicle established within those previous 3 financial years (~~being an entity established principally for the purpose of creating or contributing to 1 or more screen productions~~).
- (4) In this section,—
- support services** means any of the following services ~~that if they~~ make a peripheral (and not integral) contribution to the creation of a—the particular screen production or productions:
- (a) accounting, administration, advertising, auditing, legal, management, or representation services;
 - (b) any other services of a similar nature
- volunteer** means an individual who does work without reward and without expecting reward.

11A Meaning of workplace relationship

A workplace relationship is a relationship between any of the following:

- (a) an engager and a screen production worker bargaining for an individual contract:
- (b) a screen production worker and the worker's engager:
- (c) a worker organisation and—
 - (i) its members who are screen production workers; and
 - (ii) any other screen production workers to whom a collective contract may apply and for whom the worker organisation is a bargaining party or signatory party (including workers who are members of an organisation referred to in **subparagraph (iii)**); and
 - (iii) any other worker organisation that is bargaining for, or a party to, the same collective contract:
- (d) an engager organisation and—

- (i) its members who engage screen production workers; and
- (ii) any other engager to whom a collective contract may apply and for whom the engager organisation is a bargaining party or signatory party (including members of an organisation referred to in **subparagraph (iii)**); and
- (iii) any other engager organisation that is bargaining for, or a party to, the same collective contract:
- (e) a worker organisation and an engager organisation bargaining for, or a party to, the same occupational contract:
- (f) a worker organisation and an engager.

12 Screen productions to which Act applies

- (1) This Act applies in respect of the screen productions described in **clause 1 of Schedule 2**.
- (2) This Act does not apply in respect of the screen productions described in **clause 2 of Schedule 2**.

Part 1A

~~Freedom of association~~Good faith and freedom of association

12AA Duties of good faith for parties in workplace relationship

- (1) Parties in a workplace relationship must not, whether directly or indirectly, do anything—
 - (a) to mislead or deceive each other; or
 - (b) that is likely to mislead or deceive each other.
- (2) **Subsection (1)** is a complete description of the duties of good faith in relation to workplace relationships, except when parties are bargaining collectively (when they also have the duties set out in **section 26**).

12AB Penalty for breaching section 12AA

A person who breaches **section 12AA** is liable to a penalty under this Act.

12A Voluntary membership of worker organisation or engager organisation

- (1) A contract, agreement, or other arrangement between persons must not require a screen production worker—
 - (a) to become or remain a member of a worker organisation or a particular worker organisation; or
 - (b) to cease being a member of a worker organisation or a particular worker organisation; or
 - (c) not to become a member of a worker organisation or a particular worker organisation.

- (2) A contract, agreement, or other arrangement between persons must not require an engager—
- (a) to become or remain a member of an engager organisation or a particular engager organisation; or
 - (b) to cease being a member of an engager organisation or a particular engager organisation; or
 - (c) not to become a member of an engager organisation or a particular engager organisation.

12B Prohibition on preferential treatment

- (1) A contract, agreement, or other arrangement between persons must not confer on a screen production worker, because the worker is or is not a member of a worker organisation or a particular worker organisation,—
- (a) any preference for the worker's engagement as a screen production worker; or
 - (b) any preference for the worker's engagement as a screen production worker to continue; or
 - (c) any preference in relation to—
 - (i) the worker's terms of engagement (including terms relating to compensation for termination of their contract); or
 - (ii) any other benefit or opportunity that relates to the worker's engagement (whether specified in their individual contract or otherwise).
- (2) **Subsection (1)** is not breached simply because a screen production worker's individual contract is different from those of other screen production workers engaged by the same engager.
- (3) A contract, agreement, or other arrangement between persons must not confer any benefit or opportunity on an engager because the engager is or is not a member of an engager organisation or a particular engager organisation (for example, an arrangement offering the engager a more favourable contract on the condition that the engager not join an engager organisation).

~~12C Arrangements inconsistent with section 12A or 12B of no effect~~

~~A contract, agreement, or other arrangement has no force or effect to the extent that it is inconsistent with **section 12A or 12B**.~~

12D Undue influence prohibited

- (1) A person must not exert undue influence, directly or indirectly, on a screen production worker with the intention of inducing the worker to—
- (a) form, join, not join, remain a member of, or cease to be a member of a worker organisation; or

- (b) participate or not participate in any aspect of collective bargaining under this Act; or
 - (c) be covered or not be covered by an enterprise-level collective contract; or
 - (d) terminate their individual contract with their engager on account of the fact that they are or are not a member of a worker organisation or a particular worker organisation.
- (2) A person must not exert undue influence, directly or indirectly, on any person with the intention of inducing the person to—
- (a) not act on behalf of any screen production worker; or
 - (b) cease to act on behalf of any screen production worker.

12E Penalty for breaching section 12D

- (1) A person who breaches **section 12D** is liable to a penalty under this Act.
- (2) Matters relevant to whether a person has exerted undue influence on any other person under **section 12D** include any developments in the common law relating to the parameters of undue influence under the Employment Relations Act 2000 that are relevant to the context of this Act.

Part 2

Workplace relationships and individual contracts

13 Engager responsibilities when entering individual contracts

- (1) An engager must ensure that an individual contract is in writing.
- (2) An engager must do at least the following things before entering into a new individual contract:
 - (a) give the screen production worker concerned a copy of the contract intended for negotiation (whether contained in a single document or otherwise); and
 - (b) advise the worker that they are entitled to seek independent advice about it; and
 - (c) give the worker a reasonable opportunity to seek that advice; and
 - (d) consider any issues raised by the worker and respond in good faith.
- (3) An engager must provide a screen production worker with a copy of their individual contract as soon as practicable after the contract is entered into.

14 Process to vary individual contract

- (1) If the parties wish to vary an individual contract, the engager must—
 - (a) give the worker a copy of the contract with the potential variation; and

- (b) advise the worker that they are entitled to seek independent advice about it; and
- (c) give the worker a reasonable opportunity to seek that advice; and
- (d) consider any issues raised by the worker and respond in good faith.
- (2) An engager must provide the worker with a copy of the varied contract as soon as practicable after the contract is varied.
- (3) **Subsections (1) and (2)** do not apply to any of the following kinds of variation:
 - (a) a variation resulting from a collective contract coming into force that applies to the worker:
 - (b) a variation resulting from a variation to a collective contract if—
 - (i) the collective contract applies to the worker; and
 - (ii) the variation to the collective contract will apply to the worker.

15 Individual contract terms

- (1) A screen production worker’s individual contract must contain the terms specified in **section 16**.
- (2) A screen production worker’s individual contract must also comply with—
 - (a) **subsection (3)**, if an occupational contract applies to the worker:
 - (b) **subsection (4)**, if an enterprise contract applies to the worker:
 - (c) **subsection (5)**, if both an occupational contract and an enterprise contract apply to the worker.
- (3) The worker’s individual contract—
 - (a) must contain all terms of the occupational contract that are required to be included in an individual contract (except terms otherwise covered by the worker’s individual contract that are the same or more favourable to the worker):
 - (b) is deemed to contain every other term of the collective contract that is applicable to the worker (except terms otherwise covered by the worker’s individual contract that are the same or more favourable to the worker):
 - (c) may contain any other terms that the worker and engager agree, except any term that is—
 - (i) prohibited under **section 6A**; or
 - (ii) less favourable to the worker than a corresponding term of the collective contract and not authorised in accordance with **section 49C**.
- (4) The worker’s individual contract—

- (a) is deemed to contain every term of the enterprise contract that is applicable to the worker (except terms otherwise covered by the worker's individual contract that are the same or more favourable to the worker):
 - (b) may contain any other terms that the worker and engager agree, except any term that is—
 - (i) prohibited under **section 6A**; or
 - (ii) less favourable to the worker than a corresponding term of the collective contract.
- (5) The worker's individual contract—
- (a) must contain all terms of the occupational contract that are required to be included in an individual contract (except terms otherwise covered by the worker's enterprise contract or individual contract that are the same or more favourable to the worker):
 - (b) is deemed to contain every other term of the occupational contract that is applicable to the worker (except terms otherwise covered by the worker's enterprise contract or individual contract that are the same or more favourable to the worker):
 - (c) is deemed to contain every term of the enterprise contract that is applicable to the worker (except terms otherwise covered by the worker's individual contract that are the same or more favourable to the worker):
 - (d) may contain any other terms that the worker and engager agree, except any term that is—
 - (i) prohibited under **section 6A**; or
 - (ii) less favourable to the worker than a corresponding term of the enterprise contract; or
 - (iii) less favourable to the worker than a corresponding term of the occupational contract and not authorised in accordance with **section 49C**.
- (6) The terms of any collective contract that are deemed to be included in a screen production worker's individual contract in accordance with this section are not required to be separately duplicated in the worker's individual contract. (However this does not apply to any mandatory terms that must be included under **section 16**.)
- (7) A worker's individual contract is unenforceable to the extent that it contains terms specified in **subsection (3)(c)(i) or (ii), (4)(b)(i) or (ii), or (5)(d)(i), (ii), or (iii)**.

16 Mandatory terms in individual contracts

- (1) An individual contract must contain a term that requires both parties to the contract to comply at all times with their respective obligations under the Health and Safety at Work Act 2015 and the Human Rights Act 1993.

- (2) An individual contract must contain, in plain language,—
 - (a) an explanation of the process by which the screen production worker may raise, and the engager respond to, a complaint by the worker about bullying, discrimination, or harassment in the workplace; and
 - (b) a statement that the process does not prevent the screen production worker from raising a complaint under this or any other enactment.
- (3) An individual contract must contain an explanation in plain language of the processes available for resolving disputes, which may include those available under **subpart 1 of Part 4.**
- (4) An individual contract must contain a term that sets out—
 - (a) the period of notice (if any) required if either party to the contract terminates the contract; and
 - (b) the compensation (if any) payable to a screen production worker if the party who terminates the contract is the worker’s engager.

17 Prohibition on retaliatory termination or non-renewal of individual contracts

- (1) An engager must not terminate or refuse to renew a screen production worker’s contract if the decision to do so is motivated, wholly or partly, by the exercise or proposed exercise by the worker of any right, power, authority, or remedy conferred on the worker by—
 - (a) a term of the worker’s individual contract; or
 - (b) this Act or any other enactment.
- (2) An engager must not terminate or refuse to renew a screen production worker’s contract if the decision to do so is motivated, wholly or partly, by the worker having provided or intending to provide information or evidence in relation to a complaint of bullying, discrimination, or harassment made by another individual under this or any other enactment.

18 Penalties relating to individual contracts

- (1) An engager is liable to a penalty under this Act if the engager enters into an individual contract that includes a term that has the effect of breaching **section 6A.**
- (2) An engager is liable to a penalty under this Act if the engager does not comply with 1 or more of the requirements in **section 13 or 14.**
- (4) An engager is liable to a penalty under this Act if the engager enters into an individual contract and the contract does not comply with the requirements of **section 15.**
- (5) An engager is liable to a penalty under this Act if the engager terminates or refuses to renew a screen production worker’s contract and is motivated to do so, wholly or partly, by any of the factors set out in **section 17.**

Subpart 1—Workplace relationships

13 Parties to workplace relationship must act in good faith

- (1) ~~The parties to a workplace relationship must not, whether directly or indirectly,—~~
 - (a) ~~do anything to mislead or deceive each other; or~~
 - (b) ~~do anything that is likely to mislead or deceive each other.~~
- (2) ~~For the purposes of this Act, the duties imposed under **subsection (1)** are a complete description of the duty of good faith in relation to workplace relationships.~~
- (3) ~~**Subsection (2)** is subject to **subsection (4)**.~~
- (4) ~~For the purposes of this Act, the duties imposed under **subsection (1) and section 26** are a complete description of the duty of good faith in relation to a workplace relationship between parties bargaining for a collective contract.~~

15 Penalty for breaching section 13

A person who breaches **section 13** is liable to a penalty under this Act.

Subpart 2—Individual contracts

16AAA Engager responsibilities before entering individual contracts

~~An engager must do at least the following things before entering into a new individual contract:~~

- (a) ~~give the individual concerned a copy of the contract intended for negotiation (whether contained in a single document or otherwise); and~~
- (b) ~~advise the individual that they are entitled to seek independent advice about it; and~~
- (c) ~~give the individual a reasonable opportunity to seek that advice; and~~
- (d) ~~consider any issues raised by the individual and respond in good faith.~~

16 Engager must provide screen production worker with individual contract

- (1) ~~An individual contract must be in writing.~~
- (2) ~~An engager must ensure that **subsection (1)** is complied with.~~
- (3) ~~An engager must provide a screen production worker with a copy of their individual contract as soon as practicable after the contract is entered into.~~
- (4) ~~If the parties wish to vary the contract, the engager must—~~
 - (a) ~~give the worker a copy of the contract with the potential variation; and~~
 - (b) ~~advise the worker that they are entitled to seek independent advice about it; and~~
 - (c) ~~give the worker a reasonable opportunity to seek that advice; and~~

- (d) consider any issues raised by the worker and respond in good faith.
- (5) ~~An engager must provide the worker with a copy of the varied contract as soon as practicable after the contract is varied.~~
- (6) **Subsection (3)** is subject to **section 16A(7)**.
- (7) **Subsections (4) and (5)** do not apply to any of the following variations:
 - (a) ~~variations resulting from a collective contract coming into force that applies to the worker;~~
 - (b) ~~variations resulting from a variation to a collective contract if—~~
 - (i) ~~the collective contract applies to the worker; and~~
 - (ii) ~~the variation to the collective contract will apply to the worker.~~

16A Individual contract terms

- (1) ~~A screen production worker's individual contract must contain the terms specified in **section 17**.~~
- (2) ~~A screen production worker's individual contract must also comply with—~~
 - (a) **subsection (3)**, if an occupation-level collective contract applies to the worker;
 - (b) **subsection (4)**, if an enterprise-level collective contract applies to the worker;
 - (c) **subsection (5)**, if both an occupation-level collective contract and an enterprise-level collective contract apply to the worker.
- (3) ~~The worker's individual contract—~~
 - (a) ~~must contain all terms of the occupation-level collective contract that are required to be included in an individual contract (except terms otherwise covered by the worker's individual contract to the same or a more favourable effect);~~
 - (b) ~~is deemed to contain every other term of the collective contract that is applicable to the worker (except terms otherwise covered by the worker's individual contract to the same or a more favourable effect);~~
 - (c) ~~may contain any other terms that the worker and engager agree, except any terms that, individually or in their overall effect, are—~~
 - (i) ~~prohibited under **section 6A**; or~~
 - (ii) ~~less favourable to the worker than the terms of the collective contract and not authorised in accordance with **section 33**.~~
- (4) ~~The worker's individual contract—~~
 - (a) ~~is deemed to contain every term of the enterprise-level collective contract that is applicable to the worker (except terms otherwise covered by the worker's individual contract to the same or a more favourable effect);~~

- (b) may contain any other terms that the worker and engager agree, except any terms that, individually or in their overall effect, are—
 - (i) prohibited under **section 6A**; or
 - (ii) less favourable to the worker than the terms of the collective contract and not authorised in accordance with **section 33**.
- (5) The worker's individual contract—
 - (a) must contain all terms of the occupation-level collective contract that are required to be included in an individual contract (except terms otherwise covered by either the worker's enterprise-level collective contract or individual contract to the same or a more favourable effect);
 - (b) is deemed to contain every other term of the occupation-level collective contract that is applicable to the worker (except terms otherwise covered by either the worker's enterprise-level collective contract or individual contract to the same or a more favourable effect);
 - (c) is deemed to contain every term of the enterprise-level collective contract that is applicable to the worker (except terms otherwise covered by the worker's individual contract to the same or a more favourable effect);
 - (d) may contain any other terms that the worker and engager agree, except any terms that, individually or in their overall effect, are—
 - (i) prohibited under **section 6A**; or
 - (ii) less favourable to the worker than the terms of the collective contracts and not authorised in accordance with **section 33**.
- (6) For the purposes of **section 16**, the terms of any collective contract that are deemed to be included in a screen production worker's individual contract in accordance with this section are not required to be separately duplicated in the worker's individual contract.
- (7) A worker's individual contract is unenforceable to the extent that it contains terms specified in **subsection (3)(c), (4)(b), or (5)(d)**.

17 Mandatory individual contract terms

- (1) An individual contract must contain a term that provides that both parties to the contract must comply at all times with their respective obligations under the Health and Safety at Work Act 2015 and the Human Rights Act 1993.
- (2) An individual contract must contain an explanation in plain language of the process by which the screen production worker may raise, and the engager respond to, a complaint by the worker about bullying, discrimination, or harassment in the workplace.
- (2A) An individual contract must contain an explanation in plain language of the processes available for resolving disputes, including those available under **subpart 1 of Part 4**.

- (3) An individual contract must contain a term that sets out—
- (a) the period of notice (if any) required if either party to the contract terminates the contract; and
 - (b) the compensation (if any) payable to a screen production worker if the party who terminates the contract is the worker's engager.

18 Prohibition on retaliatory termination of individual contracts

- (1) An engager must not terminate a screen production worker's contract if the decision to do so is motivated wholly or partly by the exercise or proposed exercise by the worker of any right, power, authority, or remedy conferred on the worker by—
- (a) a term of the worker's individual contract; or
 - (b) this Act or any other enactment.
- (2) An engager must not terminate a screen production worker's contract if the decision to do so is motivated wholly or partly because the worker has provided or is intending to provide information or evidence in relation to a complaint of bullying, discrimination, or harassment made by another individual under this or any other enactment.

19 Resolution of disputes relating to individual contracts

- (1) A dispute relating to an individual contract may be resolved between the persons concerned using—
- (a) the dispute resolution processes set out in **subpart 1 of Part 4**; or
 - (b) any other agreed process, including any variation, addition, or replacement to a process set out in that subpart.
- (2) For the purposes of resolving the dispute,—
- (a) a worker organisation may act on behalf of a screen production worker, if the worker consents; and
 - (b) an engager organisation may act on behalf of an engager, if the engager consents.
- (3) **Subsection (1)(b)** is subject to the rest of this section.
- (4) The dispute resolution processes set out in **subpart 1 of Part 4** must be used to resolve a dispute relating to an individual contract if the persons concerned cannot agree on any other process.
- (5) Actions relating to an individual contract for which this Act imposes a penalty may only be taken in accordance with **subpart 2 of Part 4**.
- (6) A contract, agreement, or other arrangement is unenforceable to the extent that it breaches this section.

20 Penalties relating to individual contracts

- (1AAA) An engager is liable to a penalty under this Act if the engager enters into an individual contract that includes a term that has the effect of breaching **section 6A**.
- (1AAB) An engager is liable to a penalty under this Act if the engager does not comply with 1 or more of the requirements in **section 16AAA(1)**.
- (1) An engager is liable to a penalty under this Act if the engager does not comply with the requirements of **section 16(2) or (3)**.
- (2) An engager is liable to a penalty under this Act if the engager enters into an individual contract and the contract does not comply with the requirements of **section 16A**.
- (3) An engager is liable to a penalty under this Act if the engager terminates a screen production worker's contract and is motivated to do so (wholly or partly) for any of the reasons set out in **section 18**.

Part 3
Collective bargaining

Subpart 1—Registration as worker organisation or engager organisation

21 Incorporated society may apply to register as worker organisation or engager organisation

- (1) An incorporated society may apply to the Registrar to be registered as a worker organisation or an engager organisation provided it is entitled to be registered under **section 22**.
- (2) An application must be made in accordance with regulations made under **section 75(1)** (if any) and must be accompanied by—
- (a) a copy of the society's certificate of incorporation under the Incorporated Societies Act 1908; and
 - (b) a copy of the society's rules as registered under that Act; and
 - (c) a statutory declaration made by an officer of the society setting out the reasons why the society is entitled to be registered (in terms of **section 22(1)(a) or (b)**); and
 - (d) the prescribed information (if any).

22 When society entitled to be registered

- (1) An incorporated society is entitled to be registered as a worker organisation or an engager organisation if the society—
- (a) is a union that, under the Employment Relations Act 2000 or the Trade Unions Act 1908, is registered and holds a current certificate of registration; or

- (b) meets the requirements in **subsection (2)**.
- (2) The requirements are—
- (a) the object or an object of the society is to promote its members' collective work interests; and
 - (b) the society's rules are democratic, not unreasonable, not unfairly discriminatory or unfairly prejudicial, and not contrary to law; and
 - (c) the society's rules contain a provision relating to the process for holding 1 or more secret ballots for the purposes of this Act; and
 - (d) the society is independent of, and is constituted and operates at arm's length from,—
 - (i) any engager or engager organisation, if the society is seeking to be registered as a worker organisation; and
 - (ii) any worker organisation, if the society is seeking to be registered as an engager organisation.
- (3) In deciding whether a society is entitled to be registered, the Registrar may rely on the statutory declaration made by its officer under **section 21(2)(c)**.

23 Registration

- (1) The Registrar must register an incorporated society as a worker organisation or an engager organisation, as the case may be, and provide it with a certificate of registration in the prescribed form (if any), if the society—
- (a) applies to be registered in accordance with **section 21**; and
 - (b) is entitled to be registered under **section 22**.
- (2) A certificate of registration is conclusive evidence that—
- (a) the society is registered as a worker organisation or an engager organisation under this Act (on and from the date stated in the certificate); and
 - (b) the society has complied with all the requirements of this Act relating to its registration as such an organisation.
- (3) The Registrar must—
- (a) keep, in any manner that the Registrar thinks fit, a register of registered organisations for the purposes of this section; and
 - (b) maintain a list of worker organisations and engager organisations on the department's Internet site.

24 Annual return of members

Each worker organisation or engager organisation must deliver to the Registrar, not later than 1 June in each calendar year, an annual return of members that—

- (a) states how many members it had as at 1 March in that year; and
- (b) includes the prescribed information (if any).

25 Cancellation of registration

- (1) ~~The Registrar may cancel the registration of a worker organisation or an engager organisation, but only if—~~
- ~~(a) the organisation applies to the Registrar to cancel its registration; or~~
 - ~~(b) the Authority makes an order directing the Registrar to cancel its registration.~~
- (2) ~~The Authority may make an order for the purposes of **subsection (1)(b)** only if the organisation has ceased to meet the relevant requirements of **section 22**.~~

~~Subpart 2—Matters applying to all collective~~ All collective bargaining

26 Collective bargaining must be carried out in good faith

- (1) The parties to collective bargaining must act in good faith during the bargaining process.
- (1A) For that purpose, the parties must do at least the following:
- (a) comply with **section 13 12AA** (as parties to a workplace relationship); and
 - (b) as soon as possible after the initiation of bargaining, use their best endeavours to agree a process for conducting the bargaining in an effective and efficient manner (including how they will address any disputes that may arise between them during the bargaining); and
 - (c) meet each other from time to time for the purposes of the bargaining; and
 - (d) consider and respond to proposals made by each other; and
 - (e) continue to bargain (including doing the things specified in **paragraphs (c) and (d)**) about any matters on which they have not reached agreement even if they have come to a standstill about 1 or more other matters; and
 - (f) recognise the role and authority of any person chosen by each to be its representative or advocate; and
 - (g) refrain from undermining or doing anything that is likely to undermine the bargaining or the authority of any other party to the bargaining; and
 - (h) provide to each other, on request and in accordance with **section 30**, information that is reasonably necessary to support or substantiate claims or responses to claims made for the purposes of the bargaining; and
 - (i) comply with **section 27**.
- (2) Matters relevant to whether the parties are dealing with each other in good faith in accordance with this section include—

- (a) the provisions of any agreement about good faith entered into by the parties; and
 - (b) the background circumstances; and
 - (c) the circumstances of the parties, including—
 - (i) the operational environment of the parties; and
 - (ii) the resources available to the parties; and
 - (d) any developments in the common law relating to the parameters of good faith in collective bargaining under the Employment Relations Act 2000 that are relevant to the context of this Act.
- (3) **Subsection (1A)(c)** does not require the parties to continue to meet each other about proposals that have been considered and responded to.
- (4) Nothing in this section prevents any engager from—
- (a) communicating with screen production workers during the bargaining (including, without limitation, ~~in relation to the~~ engager’s proposals for the collective contract); or
 - (b) continuing to negotiate and form individual contracts with workers during bargaining.
- (5) **Subsection (4)** applies provided the engager’s behaviour is consistent with **subsection (1A)(f) and (g)** and any duties imposed on the engager by **sections 12AA and 12D and ~~13~~**.

27 Bargaining parties must conclude collective contract

The parties bargaining for a collective contract must conclude a collective contract.

28 Industrial action prohibited during bargaining

- (1) Engagers and screen production workers are prohibited, during the bargaining for a collective contract, from taking industrial action, if the action is intended to undermine or affect the outcome of that bargaining (irrespective of whether the engager is a party to, or the worker is represented at, the bargaining).
- (2) In this section, **industrial action** means any of the following behaviours:
- (a) 2 or more workers refusing, in a concerted manner, to fulfil 1 or more terms of their individual contracts with their engagers:
 - (b) an engager or a person authorised on the engager’s behalf preventing 1 or more workers from carrying out their obligations under their individual contracts (for example, blocking access to a set):
 - (c) an engager refusing to carry out 1 or more obligations under the engager’s individual contracts with 1 or more workers (for example, not paying the workers).

- (3) To avoid doubt, nothing in this section prevents 1 or more screen production workers from exercising any rights under section 83 of the Health and Safety at Work Act 2015 to cease or refuse to carry out work.

29A Penalties for failing to comply with collective bargaining requirements

- (1) A person who breaches **section 26** (other than **subsection (1A)(i)**) is liable to a penalty under this Act.
- (2) A person who breaches **section 28(1)** is liable to a penalty under this Act.

30 Requests for information during bargaining

- (1) This section applies for the purposes of **section 26(1A)(h)**.
- (2) A request for information made by 1 or more parties to another must—
 - (a) be in writing; and
 - (b) specify the nature of the information requested in sufficient detail to enable the information to be identified; and
 - (c) specify the claim or the response to a claim in respect of which information to support or substantiate the claim or the response is requested; and
 - (d) specify a reasonable time within which the information is to be provided.
- (3) A party must provide the information requested—
 - (a) directly to the other party or parties; or
 - (b) to an independent reviewer, if the party providing the information reasonably considers that it should be treated as confidential information.
- (4) A person must not act as an independent reviewer unless appointed by mutual agreement of the party or parties requesting the information and the party that holds the information.
- (5) As soon as practicable after receiving information under **subsection (3)(b)**, an independent reviewer must—
 - (a) decide whether and, if so, to what extent the information should be treated as confidential; and
 - (b) advise the parties of the decision in a way that maintains the confidentiality of the information.
- (6) If an independent reviewer decides that the information should be treated as confidential, the independent reviewer must—
 - (a) decide whether and, if so, to what extent the information supports or substantiates the claim or the response to the claim in respect of which the information is requested; and
 - (b) advise the party that requested the information of the decision in a way that maintains the confidentiality of the information; and

- (c) answer any questions from the party that requested the information in a way that maintains the confidentiality of the information.
- (7) Unless the parties otherwise agree, information provided under **subsection (3)** and advice and answers provided under **subsections (5) and (6)**—
 - (a) must be used only for the purposes of the bargaining concerned; and
 - (b) must be treated as confidential by the parties and any person conducting the bargaining on their behalf; and
 - (c) must not be disclosed to anyone else, including any person to whom the collective contract would apply.
- (8) This section does not limit or affect the Privacy Act ~~1993~~2020.
- (9) Nothing in the Official Information Act 1982 (except section 6) enables an engager that is subject to that Act to withhold information that is requested under **section 26(1A)(h)**.

31 Form and content of collective contracts

- (1) A collective contract must—
 - (a) be in writing; and
 - (b) after ratification, be signed by each bargaining party.
- (2) The contract must contain the terms specified in **section 32**.
- (3) The contract may contain any other terms that the parties agree, except any term that—
 - (a) is contrary to law; or
 - (b) is inconsistent with this Act.

32 Mandatory collective contract terms

- (1) A collective contract must contain a coverage clause.
- (2) A collective contract must contain the following terms for all screen production workers to whom the coverage clause relates:
 - (a) the rates of pay;
 - (b) the entitlement to breaks;
 - (e) the extent to which, and the manner in which, public holidays are recognised;
 - (d) the hours of work;
 - (e) availability for work;
 - (f) the minimum procedural requirements for raising and responding to a complaint relating to bullying, discrimination, or harassment in the workplace;
 - (g) a termination clause;

-
- (h) ~~the minimum procedural requirements for resolving disputes relating to an individual contract.~~
- (3) ~~A collective contract must also contain the following terms:~~
- ~~(a) the date on which the contract expires or an event on the occurrence of which the contract expires that complies with the requirement in **section 32B(1)(b) or (2)(b)**, as the case may be;~~
 - ~~(b) a term providing how the contract may be varied;~~
 - ~~(c) a term authorising exemptions from the terms of the collective contract (as provided for in **section 33**) if the contract is an occupation-level collective contract.~~
- (4) ~~For the purposes of **subsection (2)(a)**, the contract must contain 1 or more of the following terms:~~
- ~~(a) the rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals);~~
 - ~~(b) the minimum rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals);~~
 - ~~(c) 1 or more methods of calculating the rates or minimum rates payable for certain work or types of work or to certain workers or types of workers (excluding any calculation or other adjustment for royalties and residuals).~~
- (4A) ~~For the purposes of **subsection (2)(b)**, the contract must specify whether or not there is a minimum entitlement to breaks and, if so, their frequency, duration, and timing.~~
- (5) ~~For the purposes of **subsection (2)(c)**, the contract must specify whether or not workers are expected to work on 1 or more public holidays as defined in section 5(1) of the Holidays Act 2003 and, if so,—~~
- ~~(a) whether they are entitled to receive additional compensation for working on those days; and~~
 - ~~(b) the method or methods of calculating the additional compensation.~~
- (6) ~~For the purposes of **subsection (2)(d)**, the contract must specify whether or not there is a maximum number of hours workers may be required to work in a given period and, if so,—~~
- ~~(a) whether they are entitled to receive additional compensation for working beyond the maximum hours; and~~
 - ~~(b) the method or methods of calculating the additional compensation.~~
- (7) ~~For the purposes of **subsection (2)(e)**, the contract must specify whether or not workers may be required to be available (with no guarantee for work) beyond the contractually agreed hours and, if so,—~~

- (a) ~~the method or methods of calculating additional compensation (if any) for work done during the period of availability; and~~
- (b) ~~the method or methods of calculating additional compensation (if any) for being available during the period of availability despite doing no work in that period.~~
- (8) For the purposes of **subsection (2)(g)**, the termination clause must specify—
 - (a) ~~the process by which either party to an individual contract may terminate the contract; and~~
 - (b) ~~the period of notice (if any) required by either party; and~~
 - (c) ~~the compensation (if any) payable to the worker if the engager terminates the contract.~~

32A Bargaining fees

- (1) In this section,—

bargaining fee means an amount payable by a screen production worker to a worker organisation under a bargaining fee term, whether payable as a lump sum or on a periodical basis

bargaining fee term means a term in a collective contract that—

- (a) applies to 1 or more non-member workers; and
- (b) requires them to pay a bargaining fee; and
- (c) specifies the amount of the bargaining fee

non-member worker means a screen production worker who is not a member of a worker organisation that is a signatory party to a collective contract.

- (2) An occupation-level collective contract must not include a bargaining fee term.
- (3) An enterprise-level collective contract may include a bargaining fee term if—
 - (a) the enterprise-level collective contract allows coverage to a non-member worker in a manner authorised by **section 54(2)**; and
 - (b) the bargaining fee term applies only to non-member workers who have consented to be covered under that section; and
 - (c) the bargaining fee is no greater than the lowest fee that a non-member worker would be required to pay were they a member of any worker organisation that was a signatory party to the enterprise-level collective contract.
- (4) However, the term has no effect to the extent that it does not comply with **subsection (3)**.

32B Minimum and maximum duration of collective contracts

- (1) An occupation-level collective contract—
 - (a) is in force, as from its commencement date, for no less than 3 years; and

- (b) must expire no more than 6 years from its commencement date.
- (2) An enterprise-level collective contract—
 - (a) is in force as from its commencement date; and
 - (b) must expire no less than 3 years and no more than 6 years from its commencement date.
- (3) Despite **subsections (1) and (2)**, a contract that would otherwise expire continues in force for the period specified in **subsection (4)** if the bargaining process to replace the contract has begun (under **section 37 or 51**, as the case may be) before the original date of expiry.
- (4) The period is the period (not exceeding 12 months) during which parties are bargaining for a replacement contract.
- (5) Despite **subsection (2)(b)**, if the work of all the screen production workers to whom the enterprise-level collective contract applies is completed before the date on which the collective contract expires, the collective contract must be treated for all purposes as having expired on the date on which all the work is completed.

32C Collective contracts must be sent to chief executive

- (1) The worker organisation responsible for conducting the ratification vote under **section 42** in relation to an occupation-level collective contract must ensure that, as soon as practicable after the contract is signed, the following are delivered to the chief executive:
 - (a) a copy of the contract; and
 - (b) a statement about the ratification vote that includes—
 - (i) the total number of votes cast; and
 - (ii) the total number of votes in favour; and
 - (iii) the total number of votes opposed.
- (2) For each occupation-level collective contract received, the chief executive must—
 - (a) give notice in the *Gazette* of the date on which the contract will commence under **section 49** and where a copy of the contract may be obtained; and
 - (b) publish the contract on the department's Internet site.
- (3) The bargaining parties to an enterprise-level collective contract must ensure that, as soon as practicable after the contract is signed, a copy of the contract is delivered to the chief executive.
- (4) For each enterprise-level collective contract received,—
 - (a) the chief executive may use the information contained in it for only statistical or analytical purposes; and

- (b) the Official Information Act 1982 does not apply to it.

32D Variations to collective contracts

- (1) A collective contract may be varied.
- (2) A variation to an occupation-level collective contract must be—
- (a) assessed by the Authority under **section 46**; and
 - (b) ratified under **section 47**.
- (3) For the purposes of **subsection (1)**, the processes in **sections 46 and 47** apply as if the variation were a draft occupation-level collective contract and with any other necessary modifications.
- (4) A variation to an enterprise-level collective contract must be ratified under **section 53**.
- (5) For the purposes of **subsection (4)**, **section 53** applies as if the variation were an enterprise-level collective contract and with any other necessary modifications.

33 Exemptions from terms of occupation-level collective contracts

- (1) An occupation-level collective contract must contain a term authorising an engager and 1 or more screen production workers to—
- (a) enter into individual contracts containing 1 or more terms that are less favourable to the workers than the terms of the collective contract (the **less favourable term**); or
 - (b) vary individual contracts between the engager and the workers to include a less favourable term.
- (2) However, a less favourable term may form part of a worker's individual contract only in the following circumstances:
- (a) the less favourable term will relate only to a particular screen production;
 - (b) the less favourable term will not have the effect of allowing less favourable terms relating to the rates payable under the collective contract in accordance with **section 32(2)(a)**;
 - (c) otherwise complying with the terms of the collective contract will result in—
 - (i) significant disruption to the production; or
 - (ii) a significant increase in its costs;
 - (d) the engager and the worker have agreed that the less favourable term be included in the individual contract only after—
 - (i) the engager has advised the worker that they are entitled to seek independent advice about the term; and

- (ii) ~~the worker has been given a reasonable opportunity to seek that advice; and~~
 - (iii) ~~the engager has considered any issues raised by the worker and responded to them in good faith:~~
 - (e) ~~if the work to which the less favourable term relates has not yet begun, the engager has obtained the written consent of all signatory parties to the collective contract, having first provided those parties with the following information:~~
 - (i) ~~the proposed number of individual contracts that will contain the less favourable term; and~~
 - (ii) ~~the proposed nature of the less favourable term (for example, the workers will be required to work 10 hours rather than 8 hours each working day); and~~
 - (iii) ~~the term or terms of the collective contract to which the proposed less favourable term relates; and~~
 - (iv) ~~how the inclusion of the proposed less favourable term will satisfy the criteria in **paragraph (c)**:~~
 - (f) ~~if the work to which the less favourable term relates has already begun, the engager notifies (in writing) all the signatory parties to the collective contract of:~~
 - (i) ~~the number of individual contracts that contain the less favourable term; and~~
 - (ii) ~~the nature of the less favourable term (for example, the workers are required to work 10 hours rather than 8 hours each working day); and~~
 - (iii) ~~the term or terms of the collective contract to which the less favourable term relates; and~~
 - (iv) ~~how the inclusion of the less favourable terms satisfy the criteria in **paragraph (c)**:~~
- (3) ~~If work on the screen production has already begun, the less favourable term may be verbally agreed between the worker and the engager, but the engager must amend the worker's written individual contract as soon as reasonably practicable to record the variation made in accordance with this section.~~
- (4) ~~Without limiting **subsection (2)(c)**, a **significant disruption to a production** may include a significant disruption—~~
 - (a) ~~to the time period scheduled for the work to which the less favourable term relates (for example, a weather event or other uncontrollable interruption requiring work to be completed in a compressed timeframe); or~~
 - (b) ~~to the availability of essential personnel or equipment; or~~

- (e) ~~to the location of the production (for example, if the current location becomes unsafe).~~

33A Penalty for breaching section 33

An engager who breaches **section 33** is liable to a penalty under this Act.

35A Enforcement of collective contracts

- (1) ~~A worker organisation or an engager organisation that is a signatory party to a collective contract may enforce the contract, whether in its role as a signatory party, a party to a workplace relationship, or on behalf of another party in accordance with **section 19 or 35B** (for the purposes of settling a dispute).~~
- (2) This section is for the avoidance of doubt.

35B Resolution of disputes relating to collective contracts

- (1) ~~A dispute relating to a collective contract may be resolved between the persons concerned using—~~
- ~~(a) the dispute resolution processes set out in **subpart 1 of Part 4**; or~~
- ~~(b) any other agreed process, including any variation, addition, or replacement to a process set out in that subpart.~~
- (2) ~~In resolving a dispute,—~~
- ~~(a) a worker organisation may act on behalf of 1 or more screen production workers, if the workers consent; and~~
- ~~(b) an engager organisation may act on behalf of 1 or more engagers, if the engagers consent.~~
- (3) **Subsection (1)(b)** is subject to the rest of this section.
- (4) ~~The dispute resolution processes set out in **subpart 1 of Part 4** must be used to resolve a dispute relating to a collective contract if the persons concerned cannot agree on any other process.~~
- (5) ~~Only the Authority has the power to fix terms disagreement about which is preventing conclusion of an occupation-level collective contract (see **sections 58(3) and 59(3)**).~~
- (6) ~~An action for a penalty under this Act that relates to a collective contract may only be taken in accordance with **subpart 2 of Part 4**.~~
- (7) ~~A contract, agreement, or other arrangement is unenforceable to the extent that it breaches this section.~~
- (8) ~~In this section, a reference to a **collective contract** includes a reference to bargaining for a collective contract.~~

Subpart 2A—Requirements for all collective contracts

31 Form and content of collective contracts

- (1) A collective contract must—
 - (a) be in writing; and
 - (b) after ratification, be signed by each bargaining party.
- (2) The contract must contain the terms specified in **section 32**.
- (3) The contract may contain any other terms that the parties agree, except any term that is—
 - (a) contrary to law; or
 - (b) inconsistent with this Act.

32 Mandatory terms in collective contracts

- (1) A collective contract must contain a coverage clause.
- (2) A collective contract must contain the following terms for all screen production workers who do the work to which the coverage clause relates:
 - (a) the rates of pay:
 - (b) the entitlement to breaks:
 - (c) the extent to which, and the manner in which, public holidays are recognised:
 - (d) the hours of work:
 - (e) availability for work:
 - (f) the minimum procedural requirements for raising and responding to a complaint relating to bullying, discrimination, or harassment in the workplace:
 - (g) a termination clause:
 - (h) the minimum procedural requirements for resolving disputes relating to an individual contract.
- (3) A collective contract must also contain the following terms:
 - (a) the date on which the contract expires or an event on the occurrence of which the contract expires that complies with the requirement in **section 34(1) or (2)**, as the case may be:
 - (b) a term providing for how the contract may be varied:
 - (c) a term authorising exemptions from the terms of the collective contract (as provided for in **section 49C**) if the contract is an occupational contract.
- (4) For the purposes of **subsection (2)(a)**, the contract must contain 1 or more of the following terms:

- (a) the rates payable (excluding any calculation or other adjustment for royalties and residuals):
 - (b) the minimum rates payable (excluding any calculation or other adjustment for royalties and residuals):
 - (c) 1 or more methods of calculating the rates or minimum rates payable (excluding any calculation or other adjustment for royalties and residuals).
- (5) For the purposes of **subsection (2)(b)**, the contract must specify whether or not there is a minimum entitlement to breaks and, if so, their frequency, duration, and timing.
- (6) For the purposes of **subsection (2)(c)**, the contract must specify whether or not workers are expected to work on 1 or more public holidays as defined in section 44(1) of the Holidays Act 2003 and, if so,—
 - (a) whether they are entitled to receive additional compensation for working on those days; and
 - (b) the method or methods of calculating the additional compensation.
- (7) For the purposes of **subsection (2)(d)**, the contract must specify whether or not there is a maximum number of hours workers may be required to work in a given period and, if so,—
 - (a) whether they are entitled to receive additional compensation for working beyond the maximum hours; and
 - (b) the method or methods of calculating the additional compensation.
- (8) For the purposes of **subsection (2)(e)**, the contract must specify whether or not workers may be required to be available (with no guarantee for work) beyond the contractually agreed hours and, if so,—
 - (a) the method or methods of calculating additional compensation (if any) for work done during the period of availability; and
 - (b) the method or methods of calculating additional compensation (if any) for being available during the period of availability despite doing no work in that period.
- (9) For the purposes of **subsection (2)(g)**, the termination clause must specify—
 - (a) the process by which either party to an individual contract may terminate the contract; and
 - (b) the period of notice (if any) required by either party; and
 - (c) the compensation (if any) payable to the worker if the engager terminates the contract.
- (10) Terms of a collective contract may differentiate between specified work, or specified types of work, or specified workers, or specified types of worker.

33 Bargaining fees

- (1) An occupational contract must not include a bargaining fee term.
- (2) An enterprise contract may include a bargaining fee term if—
 - (a) the enterprise contract allows coverage to a non-member worker in a manner authorised by **section 54(2)**; and
 - (b) the bargaining fee term applies only to non-member workers who have consented to be covered under that section; and
 - (c) the bargaining fee is no greater than the lowest fee that a non-member worker would be required to pay if they were a member of any worker organisation that was a signatory party to the enterprise contract.
- (3) A bargaining fee term in an enterprise contract has no effect to the extent that it does not comply with **subsection (2)**.
- (4) In this section,—

bargaining fee means an amount (however described) payable by a screen production worker to a worker organisation under a bargaining fee term, whether payable as a lump sum or on a periodical basis

bargaining fee term means a term in a collective contract that—

 - (a) applies to 1 or more non-member workers; and
 - (b) requires them to pay a bargaining fee; and
 - (c) specifies the amount of the bargaining fee

non-member worker means a screen production worker who is not a member of a worker organisation that is a signatory party to a collective contract.

34 Duration of collective contracts

- (1) An occupational contract—
 - (a) is in force, as from its commencement date, for no less than 3 years; and
 - (b) must expire no more than 6 years from its commencement date.
- (2) An enterprise contract—
 - (a) is in force as from its commencement date; and
 - (b) must expire no less than 3 years and no more than 6 years from its commencement date.
- (3) Despite **subsections (1) and (2)**, a contract that would otherwise expire continues in force if—
 - (a) the contract is an occupational contract and, before the date of expiry, an application is made under **section 37** to initiate bargaining to replace it;
or

- (b) the contract is an enterprise contract and, before the date of expiry, the bargaining process to replace it has begun in accordance with **section 51(2)**.
- (4) If **subsection (3)(a)** applies, and the Authority declines the application made under **section 37** to initiate bargaining to replace the occupational contract, the contract expires on the later of the following dates:
- (a) the date calculated under **subsection (1)(b)**;
- (b) the date on which the Authority declines the application to initiate bargaining.
- (5) Despite **subsection (2)(b)**, if the work of all the screen production workers to whom the enterprise contract applies is completed before the date on which the enterprise contract expires, the enterprise contract must be treated for all purposes as having expired on the date on which all the work is completed.

Subpart 3—~~Matters applying to bargaining for occupation-level collective contracts~~Occupational contracts

36 Preliminary requirements

- (1) ~~To participate in bargaining for an occupation-level collective contract under this Act (whether on behalf of screen production workers or engagers), a person must be registered as a worker organisation or an engager organisation in accordance with **subpart 1** of this Part.~~
- (2) ~~However, to~~To initiate bargaining for such a~~an occupational contract, a worker organisation or an engager organisation must also apply to the Authority in accordance with **section 37** and the Authority must decide (under **this subpart**)—~~
- (a) whether to allow bargaining to be initiated; and
- (b) certain matters relating to the conduct of the bargaining.
- (3) Before allowing bargaining to be initiated, the Authority must be satisfied that there is—
- (a) at least 1 worker organisation registered under **subpart 1AAA of Part 5** that represents screen production workers to whom the occupational contract will apply; and
- (b) at least 1 engager organisation registered under **subpart 1AAA of Part 5** that represents engagers to whom the occupational contract will apply.
- (4) See **section 44AA** for the potential effect on a bargaining process of a bargaining party being removed.

- 37 ~~Worker organisation or engager organisation may apply~~ Application for approval to initiate bargaining**
- (1) A worker organisation or an engager organisation may apply to the Authority to initiate bargaining for an ~~occupation-level collective occupational~~ contract.
 - (2) The application must be made in ~~accordance with regulations made under section 75(1)~~ the manner prescribed by the regulations (if any) and be accompanied by—
 - (a) a copy of the applicant’s certificate of registration provided under ~~section 23 65C~~; and
 - (b) a copy of a bargaining notice that complies with the requirements of **subsection (3)**; and
 - (c) if the applicant is a worker organisation, the following information:
 - (i) the number of its members who do the work of the occupational group to be specified in the coverage clause of the contract; and
 - (ii) a statement that, of those members, a simple majority who voted by secret ballot voted in favour of the applicant initiating bargaining; and
 - (iii) a statement of how the organisation will conduct a ratification vote that will allow any ~~eligible individual~~ worker who does the work of the occupational group to be specified in the coverage clause to cast a vote, irrespective of whether the person is a member of the applicant’s organisation; and
 - (d) if the applicant is an engager organisation, the following information:
 - (i) the number of its members who ~~engage individuals~~ workers who do the work of the occupational group to be specified in the coverage clause of the contract; and
 - (ii) a statement that, of those members, a simple majority who voted by secret ballot voted in favour of the applicant initiating bargaining; and
 - (iii) a statement as to which worker organisation it considers should conduct the ratification vote; ~~and~~
 - (e) ~~the prescribed information (if any).~~
 - (3) A bargaining notice must be in writing and identify—
 - (a) the occupational group to be specified in the coverage clause of the contract; and
 - (b) all worker organisations whose members do the work of that occupational group; and
 - (c) all engager organisations whose members ~~engage individuals~~ workers who do the work of that occupational group; and

- (d) any ~~collective occupational~~ contract that applies to some or all of the screen production workers in the occupational group referred to in **paragraph (a)** or the most recently expired ~~collective occupational~~ contract that applied to some or all of those workers (if any); and
- (e) who will conduct the ratification vote for the purposes of **section 47**, which must be—
 - (i) the applicant, if a worker organisation; or
 - (ii) the worker organisation identified under **subsection (2)(d)(iii)**, if the applicant is an engager organisation.
- (4) An applicant must, at the same time as applying to the Authority, send a copy (including the accompanying material) to the other worker organisations and engager organisations referred to in **subsection (3)(b) and (c)**.
- (5) This section is subject to **section 38**.

38 When application may be made

- (1) If there is no applicable ~~occupation-level collective occupational~~ contract in force or an applicable contract expired more than 2 years previously, a worker organisation may apply to initiate bargaining, and may do so at any time.
- (2) If there is an applicable ~~occupation-level collective occupational~~ contract that expired ~~less~~no more than 2 years previously, a worker organisation or an engager organisation may apply to initiate bargaining, and may do so at any time.
- (3) If there is an applicable ~~occupation-level collective occupational~~ contract in force,—
 - (a) a worker organisation may apply to initiate bargaining no earlier than 180 days before the date on which the contract expires; and
 - (b) an engager organisation may apply to initiate bargaining no earlier than 160 days before the date on which the contract expires.
- (3A) Despite **subsections (1) to (3)**, if the Authority has published a decision approving the initiation of bargaining for an occupational contract under **section 43** and that bargaining has not concluded, no other application to initiate bargaining for the same occupational group may be made.
- (4) To avoid doubt, ~~these~~the circumstances described in **subsections (1) to (3)** are the only circumstances in which a worker organisation or an engager organisation may apply to the Authority for approval to initiate bargaining for an ~~occupation-level collective occupational~~ contract.
- (5) In this section, **applicable ~~occupation-level collective occupational~~ contract** means an ~~occupation-level collective occupational~~ contract that applies to the occupational group identified in a bargaining notice in accordance with **section 37(3)(a)**.

39 Applications must be notified and submissions invited

- (1) The Authority must, as soon as is reasonably practicable, give notice ~~on its Internet site, on an Internet site maintained by, or on behalf of, the Authority,~~ of any application to initiate bargaining received under **section 37**.
- (2) The notice must—
 - (a) include a copy of the bargaining notice referred to in **section 37(3)**; and
 - (b) invite submissions from any person; and
 - (c) state the date by which submissions must be received (being no earlier than 28 days after the date on which the Authority gives the notice); and
 - (d) state the manner in which submissions must be given (which may include by use of a ~~prescribed~~ form); and
 - (e) state any minimum requirements that submissions must comply with (~~which may, if prescribed, be different requirements for different categories of person~~); and
 - (f) give the contact details of the Authority.
- (2A) The regulations may prescribe the manner in which a submission on an application to initiate occupational bargaining must be made.
- (2B) However, regulations made for the purposes of **subsection (2A)** may only require the provision of information that is necessary for the Authority to make a decision under **section 40**.
- (3) The Authority may, if it considers it appropriate and in any manner it sees fit, extend the time within which submissions may be made.

40 Authority must decide whether to allow bargaining

- (1) Once the submission period has closed, the Authority must decide whether to allow collective bargaining to be initiated.
- (2) The Authority must approve an application if it is satisfied that there is sufficient support to do so.
- (3) In this section, **sufficient support** means,—
 - (a) if the applicant is a worker organisation, that the Authority is satisfied (having regard to the application and any submissions it has received that comply with the requirements of **section 39**) there are, in total, more ~~individuals~~ workers who do the work of the occupational group to be specified in the coverage clause of the contract who want to bargain than who do not; and
 - (b) if the applicant is an engager organisation, that the Authority is satisfied (having regard to the application and any submissions it has received that comply with the requirements of **section 39**) there are more engagers who engage ~~individuals~~ workers who do the work of the occupa-

tional group to be specified in the coverage clause of the contract who want to bargain than who do not.

- (4) For the purposes of determining the total number of ~~individuals~~ workers referred to in **subsection (3)(a)**, the number of members of any relevant worker organisation is the total number of members of the organisation who do the work of the occupational group to be specified in the coverage clause of the contract.
- (5) For the purposes of determining the total number of engagers referred to in **subsection (3)(b)**, the number of members of any relevant engager organisation is the total number of members of the organisation who engage screen production workers who do the work of the occupational group to be specified in the coverage clause of the contract.

41 Bargaining parties

- (1) This section applies if the Authority approves an application to initiate collective bargaining under **section 40**.
- (2) The following organisations are deemed to be bargaining parties, unless **subsection (2A)** applies:
 - (a) all worker organisations who have members who do the work of the occupational group to be specified in the coverage clause of the contract; and
 - (b) all engager organisations whose members engage ~~individuals~~ workers who do the work of the occupational group to be specified in the coverage clause of the contract.

(2AAA) An organisation that wishes to be excused from being a bargaining party must apply in writing to the Authority for permission.

- (2A) ~~The~~ On receipt of a request under **subsection (2AAA)**, the Authority may excuse an organisation specified in **subsection (2)** from being a bargaining party.
- (3) However, the Authority must not excuse an organisation if—
 - (a) doing so would mean a substantial number or distinct class of screen production workers or engagers would not have their interests adequately represented during the bargaining process; or
 - (b) the number of members of the excused organisation affected by the bargaining (because their work falls within the intended coverage clause) would be greater than the number of affected members of all other organisations on the same side of the bargaining.
- (4) In making a decision under **subsection (2A)**, the Authority—
 - (a) must have regard to any submissions received that comply with the requirements of **section 39**; and

- (b) may consider any other information or matter that, in its opinion, is relevant; and
 - (c) may consider any other information from any worker organisation or engager organisation deemed to be a bargaining party.
- (5) ~~An organisation that wishes to be excused must apply in writing to the Authority for permission.~~
- (6) To avoid doubt, the application of the ~~collective~~occupational contract to any screen production worker who does the work of the occupational group to be specified in the coverage clause of the contract, or any engager who engages such a worker, is not affected by an organisation being excused from participating in the bargaining, even if the worker or engager is a member of the excused organisation.

42 Authority must decide worker organisation responsible for ratification vote

- (1) This section applies if the Authority approves an application to initiate collective bargaining under **section 40**.
- (2) The Authority must decide which worker organisation will conduct the ratification vote, if it is not satisfied that the applicant worker organisation or the worker organisation nominated by the applicant engager organisation (as the case may be) consents and has the ability to conduct the ratification vote in the manner referred to in **subsection (3)(d)(ii)**.
- (3) Before deciding, the Authority—
 - (a) must have regard to any submissions received that comply with the requirements of **section 39**; and
 - (b) may consider any other information or matter that, in its opinion, is relevant; and
 - (c) may consider any other information from any other worker organisation or engager organisation deemed to be a bargaining party; and
 - (d) must be satisfied that—
 - (i) the organisation it is intending to confer the duty upon agrees to conduct the ratification vote; and
 - (ii) the organisation has the ability to conduct the ratification vote in a manner that will allow any eligible ~~individual~~ worker who does the work of the occupational group to be specified in the coverage clause to cast a vote, irrespective of whether the person is a member of that organisation.

43 Authority must publish decisions on applications

- (1) The Authority must publish all its decisions made under **section 40** on applications to initiate bargaining for an ~~occupation-level~~ collective-occupational

contract on its ~~Internet site~~ an Internet site maintained by, or on behalf of, the Authority (and, for successful applications, its decisions made under **sections 41 and 42**).

- (2) Decisions in relation to successful applications must include—
- (a) the occupational group to be specified in the coverage clause of the contract; and
 - (b) the bargaining parties to the contract; and
 - (c) the worker organisation that will conduct the ratification vote and the process that it will use; and
 - (d) any ~~occupation-level collective~~ occupational contract that ~~currently~~ applies to some or all of the screen production workers in that occupational group or the most recently expired ~~collective~~ occupational contract that applied to some or all of those workers.

43A How bargaining initiated (once approval given)

- (1) Bargaining for an ~~occupation-level collective~~ occupational contract must be initiated by the worker organisation or engager organisation that applied under **section 37(1)** to initiate bargaining.
- (2) The organisation must initiate bargaining—
 - (a) by giving a written bargaining notice to each bargaining party specified in the Authority's decision to allow bargaining (published under **section 43**); and
 - (b) on or before the expiry of the ~~30th~~ 28th day from the date on which the Authority publishes that decision.
- (3) The bargaining notice must include the information published by the Authority under **section 43(2)**.
- (4) If the organisation fails to comply with **subsection (2)(a)**, bargaining for the collective contract is automatically initiated on the day after the date referred to in **subsection (2)(b)**, in accordance with the terms of the Authority's decision published under **section 43**.

44 Removal of bargaining party

- (1) The Authority may remove a worker organisation or an engager organisation as a bargaining party for an ~~occupation-level collective~~ occupational contract after bargaining has been initiated, but only if—
 - (a) the organisation applies in writing to the Authority to be removed; or
 - (b) the organisation's registration has been cancelled under **section 25 65E**; or
 - (c) the organisation was identified as a party as a result of providing false or misleading information to the Authority; or

- (d) the Authority is satisfied that the organisation no longer has any members to whom the contract would apply.
- (2) For the purposes of deciding whether to remove an organisation under **subsection (1)(a), section 41(2A) to (4)** applies with any necessary modification.
- (3) To avoid doubt, the application of the collective contract to any screen production worker who does the work of the occupational group to be specified in the coverage clause of the contract, or engager who engages such a worker, is not affected by an organisation being removed from participating in the bargaining, even if the worker or engager is a member of the removed organisation (as the case may be).
- (4) The Authority must publish a removal decision on an Internet site maintained by, or on behalf of, the Authority.

44AA Removal of bargaining party: effect on bargaining for occupational contract

- (1) This section applies if, during bargaining for an occupational contract, 1 or more of the bargaining parties is removed.
- (2) Bargaining for the contract ends—
 - (a) if there is no engager organisation; or
 - (b) if there is no worker organisation.

44A Addition of bargaining party

- (1) The Authority may include a worker organisation or an engager organisation as a bargaining party for an ~~occupation-level collective~~ occupational contract after bargaining has been initiated, if—
 - (a) the organisation applies in writing to the Authority to be included; and
 - (b) the organisation has members who do the work of the occupational group to be specified in the coverage clause or has members who engage such workers; and
 - (c) the organisation was not identified during the process leading to the initiation of bargaining (for example, because the organisation was not in existence or registered at that time); and
 - (d) the Authority is satisfied that—
 - (i) allowing the organisation to be included will not undermine the bargaining taking place; and
 - (ii) a substantial number or distinct class of screen production workers or engagers (as the case may be) would not have their interests represented were the organisation not permitted to be included in the bargaining process.
- (2) In making a decision under **subsection (1)(d)**, the Authority—

- (a) may consider any information or matter that, in its opinion, is relevant; and
 - (b) may consider any information from any worker organisation or engager organisation that is already a bargaining party; and
 - (c) may, but is not required to, notify the application, and invite and consider submissions on it, in any manner it sees fit.
- (3) The Authority must publish all its decisions made under this section on ~~its Internet site~~ an Internet site maintained by, or on behalf of, the Authority.
- (4) ~~An organisation that wishes to be included must apply in writing to the Authority for permission.~~

46 Authority must assess draft ~~occupation-level collective occupational~~ contracts for suitability for ratification

- (1) ~~This section applies once the parties to occupation-level collective bargaining have agreed the terms they wish to put forward for ratification.~~
- (2) ~~The party who initiated the bargaining must submit the draft contract to the Authority for assessment as to its suitability for ratification.~~
- (1) This section applies if—
- (a) the parties to occupational bargaining have agreed the terms they wish to put forward for ratification and the party who initiated the bargaining has submitted the draft contract to the Authority for assessment as to its suitability for ratification; or
 - (b) the Authority has fixed terms in an occupational contract in accordance with **section 59B**.
- (3) The Authority must approve or not approve the draft as suitable for ratification.
- (4) The Authority must approve the draft if satisfied that it complies with **section 31(1)(a), (2), and (3)**.
- (5) If the Authority does not approve the draft,—
- (a) it must give the bargaining parties its reasons (by reference to the relevant matters in **subsection (4)**); and
 - (b) the parties may revise the draft and resubmit it for approval.
- (6) The process in **subsection (5)** may be repeated 1 or more times.
- (7) The Authority's decision under this section is final.

47 Ratification of ~~occupation-level collective occupational~~ contract

- (1) This section applies if the Authority has approved under **section 46** a draft ~~occupation-level collective occupational~~ contract as suitable for ratification.
- (2) Before any worker organisation that is a bargaining party signs the contract, it must be ratified by the screen production workers who do the work of the occupational group specified in the coverage clause of the contract.

- (3) For that purpose, the worker organisation responsible for conducting the ratification vote must give notice of the following matters:
 - (a) that the Authority has approved the draft contract to proceed to a ratification vote; and
 - (aa) where a copy of the contract may be obtained; and
 - (b) the details of the ratification process published under **section 43(2)(c)**, including—
 - (i) who is eligible to vote; and
 - (ii) the final date by which votes must be cast; and
 - (iii) the method by which votes may be cast.
- (4) Notice must be given on an Internet site to which the public has free access in accordance with regulations made under **section 75(4)(e)** (if any).
- (5) For the purposes of **subsection (3)(b)(i)**, a person is **eligible to vote** if, at any time in the relevant period, the person is or has been a party to a contract with an engager in respect of work on a screen production and the work is or was that done by the occupational group specified in the coverage clause of the contract.
- (6) For the purposes of **subsection (3)(b)(ii)**,—
 - (a) the **final date by which votes must be cast** must be no earlier than 14 days from the date on which voting begins; and
 - (b) voting may begin no earlier than the date on which notice of the ratification vote is given under **subsection (3)**.
- (7) In **subsection (5)**, **relevant period** means the period starting 3 years before the public notice of application (*see* **section 39**) and ending on the date on which voting on ratification closes.
- (8) ~~The occupation-level collective occupational contract is ratified if, of the eligible voters who voted, a simple majority of eligible voters vote in favour of ratification.~~

47A Occupational contracts must be delivered to chief executive

- (1) The worker organisation responsible for conducting the ratification vote for an occupational contract must ensure that, as soon as practicable after the contract is signed, the following are delivered to the chief executive:
 - (a) a copy of the contract; and
 - (b) a statement about the ratification vote that includes—
 - (i) the total number of votes cast; and
 - (ii) the total number of votes in favour; and
 - (iii) the total number of votes opposed.

- (2) If the worker organisation referred to in **subsection (1)** is deregistered before sending the signed contract to the chief executive, any other signatory party to the contract may send the signed contract to the chief executive.
- (3) For each contract received, the chief executive must—
- (a) give notice in the *Gazette* of the date on which it will commence under **section 49** and where a copy may be obtained; and
 - (b) publish it on an Internet site maintained by, or on behalf of, the department.

48 Coverage of ~~occupation-level collective occupational~~ contract

~~The terms of an occupation-level collective contract apply to—~~An occupational contract applies to, and is enforceable by, the following persons:

- (a) every screen production worker who does the work of the occupational group specified in the coverage clause of the ~~collective~~ contract; and
- (b) every engager who engages a screen production worker to do that work; and
- (c) every worker organisation that is a signatory party to the ~~collective~~ contract; and
- (d) every engager organisation that is a signatory party to the ~~collective~~ contract.

49 Commencement of ~~occupation-level collective occupational~~ contract

- (1) ~~An occupation-level collective occupational contract comes into force on the date that is 6 months from the date on which the notice is gazetted by the chief executive in accordance with **section 32G(2)(a) 47A(3)(a)**.~~
- (2) ~~The terms in the collective occupational contract apply to a screen production worker's individual contract on and from that same date, unless **subsection (3)** applies.~~
- (3) ~~The terms in the collective contract apply to the worker's individual contract on and from the date that is 1 year 12 months from the date on which the chief executive gives notice of the contract if—~~
 - (a) ~~the engager and the individual worker entered into the individual contract before the collective occupational contract was gazetted by the chief executive; and~~
 - (b) ~~the individual contract is still in force at that later date.~~

49A Addition of replacement signatory party to occupational contract

- (1) A registered worker organisation may apply to the Authority to be added as a signatory party to an occupational contract if all the worker organisations that were signatory parties are deregistered.

- (2) A registered engager organisation may apply to the Authority to be added as a signatory party to an occupational contract if all the engager organisations that were signatory parties are deregistered.
- (3) An application under **subsection (1) or (2)** must be in writing.
- (4) On receipt of an application under **subsection (1) or (2)**, the Authority may add a signatory party to an occupational contract if—
 - (a) the contract is in force; and
 - (b) the Authority is satisfied that the applicant organisation satisfies the criteria in **section 44A(1)(b) and (c)**.
- (5) In making a decision under **subsection (4)**, the Authority—
 - (a) must consult all remaining signatory parties to the contract; and
 - (b) may consider any information or matter that, in its opinion, is relevant; and
 - (c) may, but is not required to, notify the application, and invite and consider submissions on it, in any manner it sees fit.
- (6) The Authority must publish all its decisions made under this section on an Internet site maintained by, or on behalf of, the Authority.

49B Variations to occupational contract

- (1) For an occupational contract to be varied, there must be—
 - (a) at least 1 signatory party that is a worker organisation; and
 - (b) at least 1 signatory party that is an engager organisation.
- (2) A variation to an occupational contract must be—
 - (a) made in accordance with the term or terms of the contract that provide for how the contract may be varied (*see section 32(3)(b)*):
 - (b) assessed by the Authority under **section 46**; and
 - (c) ratified under **section 47**; and
 - (b) delivered to the chief executive in accordance with **section 47A**.
- (3) For the purposes of **subsection (2)**, the processes in **sections 46 and 47** apply as if the variation were a draft occupational contract (with any necessary modifications).

49C Exemptions from occupational contract

- (1) An occupational contract must contain a term authorising an engager and 1 or more screen production workers to—
 - (a) enter into individual contracts containing 1 or more terms that are less favourable to the workers than the terms of the occupational contract (**less favourable term**); or

- (b) vary individual contracts between the engager and the workers to include a less favourable term.
- (2) However, a less favourable term may form part of a worker's individual contract only if—
- (a) the less favourable term relates only to a particular screen production; and
- (b) the less favourable term does not have the effect of allowing less favourable terms relating to the rates payable under the occupational contract in accordance with **section 32(2)(a)**; and
- (c) complying with the term in the occupational contract that the less favourable term would replace would result in significant disruption to the production that could not have reasonably been foreseen; and
- (d) the engager and the worker agree that the less favourable term be included in the individual contract, after—
- (i) the engager has advised the worker that the worker is entitled to seek independent advice about the term; and
- (ii) the worker has had a reasonable opportunity to seek that advice; and
- (iii) the engager has considered any issues raised by the worker and responded to them in good faith; and
- (e) either—
- (i) the engager obtains the consent of all signatory parties to the occupational contract in accordance with the process in **section 49D**; or
- (ii) the less favourable term is immediately needed and the engager follows the immediate exemption process in **section 49E**.
- (3) See **section 49G** for the effect of a cancelled registration on an exemption process.

49D Process to obtain consent to less favourable term

- (1) The process to obtain consent for the purposes of **section 49C(2)(e)(i)** is as follows:
- (a) the engager must send a written request to all signatory parties that sets out the following information:
- (i) the proposed less favourable term; and
- (ii) the proposed number of individual contracts that will contain the less favourable term; and
- (iii) the term or terms of the occupational contract to which the proposed less favourable term relates; and

- (iv) how the inclusion of the proposed less favourable term satisfies the criterion in **section 49C(2)(c)**:
 - (b) each signatory party to the occupational contract must respond in writing to the request within 14 days:
 - (c) if a signatory party does not respond in writing within 14 days, the signatory party may be treated as having consented to the less favourable term.
- (2) When calculating a 14-day period for the purposes of this section, the days in the period commencing with 25 December in a year and ending with 2 January in the following year must not be counted.

49E Immediate exemption process

- (1) For the purposes of **section 49C(2)(e)(ii)**, a less favourable term that is immediately needed may be orally agreed between 1 or more workers and their engager but the engager must, as soon as is reasonably practicable, amend each worker's written individual contract to record the variation.
- (2) The engager must also, as soon as is reasonably practicable after agreeing the less favourable term, notify (in writing) all the signatory parties to the occupational contract of—
- (a) the less favourable term; and
 - (b) the number of individual contracts that contain the less favourable term; and
 - (c) the term or terms of the occupational contract to which the less favourable term relates; and
 - (d) how the inclusion of the less favourable term satisfies the criterion in **section 49C(2)(c)**; and
 - (e) why the inclusion of the less favourable term was immediately needed.

49F Penalty for breaching section 49C

An engager who breaches **section 49C** is liable to a penalty under this Act.

49G Cancellation of registration: effect on exemptions from occupational contract

- (1) This section applies if an exemption from an occupational contract is sought in reliance on **section 49C**, but the registration of 1 or more of the signatory parties has been cancelled.
- (2) If 1 or more signatory parties remain,—
- (a) the consent of all of the remaining signatory parties must be obtained in accordance with the process in **section 49D**; or
 - (b) in the case of an immediate exemption, all of the remaining signatory parties must be notified in accordance with **section 49E**.

- (3) If no signatory parties remain, the requirements in **section 49D and 49E** to notify and seek the consent of signatory parties do not apply.

Subpart 4—~~Matters applying to bargaining for enterprise-level collective~~
Enterprise contracts

50 Who may participate in bargaining for enterprise ~~level collective~~ contract

- (1) The bargaining parties for an enterprise ~~level collective~~ contract may only be—
- (a) 1 or more worker organisations; and
 - (b) 1 or more engagers.
- (2) To avoid doubt, if 1 or more engagers use an engager organisation to act as their agent in the bargaining, each engager is still a party to the contract (and not the engager organisation).

51 How and when bargaining may be initiated

- (1) A worker organisation or an engager may initiate bargaining for an enterprise-level ~~collective~~ contract by giving to all the other proposed bargaining parties a bargaining notice in writing that states—
- (a) the intended coverage of the contract; and
 - (b) the time period within which the parties served with the notice may respond in writing to the notice.
- (2) Bargaining is initiated only if all parties that receive the bargaining notice consent in writing within the stipulated time period.
- (3) Each worker organisation must notify each of the other bargaining parties of its ratification procedure when bargaining is initiated.

51A Withdrawal of consent to bargaining prohibited

Bargaining parties for an enterprise ~~level collective~~ contract are prohibited from withdrawing their consent once bargaining is initiated under **section 51(2)** (and the parties must conclude a collective contract in accordance with **section 27**).

52 Limitations on terms that may be agreed

The bargaining parties for an enterprise ~~level collective~~ contract must not agree to any terms that, ~~individually or in their overall effect,~~ would be less favourable to the screen production workers to whom the contract is intended to apply than any occupation-level collective a corresponding term in an occupational contract that also would apply to those workers (once the enterprise-level ~~collective~~ contract came into force).

53 Ratification of enterprise ~~level collective~~ contract

- (1) Before a worker organisation that is a bargaining party to an enterprise-level ~~collective~~ contract signs the ~~collective~~ contract, it must be ratified by the organisation's members who are screen production workers and who do the work specified in the coverage clause of the contract.
- ~~(2) This section does not apply if the bargaining relates to a screen production for which the engager or engagers have not yet engaged any workers to whom the contract would apply.~~
- (2) This section does not apply if—
 - (a) the bargaining relates to a screen production for which the engager or engagers have not yet engaged any workers to whom the contract would apply; or
 - (b) the Authority has fixed the terms of the enterprise contract (see **section 59C(2)**).

53A Enterprise contracts must be delivered to chief executive

- (1) The parties to an enterprise contract must ensure that, as soon as practicable after the contract is signed, a copy of the contract is delivered to the chief executive.
- (2) A copy of an enterprise contract delivered to the chief executive must include any document referred to, or incorporated by reference, in the contract, unless the document is publicly available.
- (3) Nothing in the Official Information Act 1982 applies to a copy of an enterprise contract delivered to the chief executive under **subsection (1)**.
- (4) The information contained in a copy of an enterprise contract delivered to the chief executive under **subsection (1)** must be used for statistical or analytical purposes only.

54 Coverage of enterprise ~~level collective~~ contract

- (1) ~~The terms of an enterprise-level collective contract apply to—~~An enterprise contract applies to, and is enforceable by, the following persons:
 - (a) every worker organisation that is a signatory party to the contract; and
 - (b) every engager that is a signatory party to the contract; and
 - (c) every screen production worker—
 - (i) who is a member of a worker organisation that is a signatory party to the contract (whether at the time the organisation signs the contract or at any later date); and
 - (ii) who does the work specified in the coverage clause of the contract for an engager that is a signatory party to the contract.

- (2) ~~The terms of an~~ An enterprise ~~-level collective contract~~ also ~~apply to~~ applies to, ~~and is enforceable by~~, every screen production worker who does the work specified in the coverage clause of the contract but who is not a member of any signatory worker organisation (a **non-member worker**), but only if—
- (a) the enterprise ~~-level collective contract~~ provides for extension of ~~the coverage of the collective contract~~ to non-member workers; and
 - (b) a term is included in the contract that sets out—
 - (i) how the contract will apply to non-member workers who consent to being covered; and
 - (ii) how a non-member worker gives consent; and
 - (c) the non-member ~~provides consent~~ consents in accordance with that term.

54A Screen production worker may choose contract to apply

- (1) This section applies if—
- (a) 2 or more enterprise ~~-level collective contracts~~ apply to a screen production worker in respect of the same work; and
 - (b) the worker is a member of both or all (as the case may be) of the worker organisations that are signatory parties to each ~~collective~~ enterprise contract.
- (2) The screen production worker may choose which enterprise ~~-level collective contract~~ contract applies to them and must notify their engager of their choice in writing.
- (3) ~~To avoid doubt, the~~ The worker may change their decision under this section at any time that the section applies to their circumstances by notifying their engager in writing.

55 Commencement of enterprise ~~-level collective contract~~

- (1) An enterprise ~~-level collective contract~~ comes into force on the date on which the bargaining parties sign the contract.
- (2) ~~The terms in the contract apply to a screen production worker's individual contract on and from that date unless the parties to the collective contract agree to a later date, which must not be later than 6 months from the date on which the collective contract is signed.~~
- (2) The terms in the enterprise contract apply to a screen production worker's individual contract on and from the later of the following dates:
- (a) the date on which the bargaining parties sign the enterprise contract;
 - (b) the date provided in the enterprise contract (which must not be more than 6 months after the signing date).
- (3) The terms in the contract apply to a non-member ~~worker~~ worker's individual contract on and from the later of—

- (a) the applicable date referred to in **subsection (2)**; and
- (b) the date on which the non-member worker consents ~~to being covered in~~ accordance with **section 54(2)(c)**.

55A Variations to enterprise contract

- (1) A variation to an enterprise contract must be ratified under **section 53** and delivered to the chief executive under **section 53A**.
- (2) For the purposes of **subsection (1)**, **section 53** applies as if the variation were an enterprise contract (with any necessary modifications).

Part 4

Dispute resolution, challenges, reviews, penalties, and offences

Subpart 1—Dispute resolution, challenges, and reviews

56 Disputes

- (1) If a dispute arises between persons to whom this Act applies, the dispute must be resolved using—
 - (a) the dispute resolution processes set out in **this subpart**; or
 - (b) any other agreed process (including any varied, additional, or replacement process).
- (2) In a dispute,—
 - (a) a worker organisation may act on behalf of 1 or more screen production workers, if the workers consent; and
 - (b) an engager organisation may act on behalf of 1 or more engagers, if the engagers consent.
- (3) However, *see* **section 59A(3)** which provides that only the Authority has the power to fix terms in an occupational contract if the bargaining parties cannot agree.

57 Mediation of disputes relating to matters under this Act

- (1) The chief executive must employ or engage persons to provide mediation services to support the resolving of disputes in relation to any matter to which this Act applies.
- (2) If mediation is provided by the chief executive, sections 144 to 154 of the Employment Relations Act 2000 apply with any necessary modifications.
- (3) Nothing in this section prevents any person from seeking and using mediation services other than those provided by the chief executive.
- (4) If a dispute ~~that arises between parties to a workplace relationship or collective bargaining~~ cannot be resolved by mediation (whether provided by the chief

executive or privately arranged), it may be resolved by a determination of the Authority made under **section 59**.

- (5) **Subsection (4)** is subject to **section 58**.

58 Facilitated bargaining: collective contracts

- (1) Before seeking a determination, the bargaining parties to a collective contract may attempt facilitation (with a member of the Authority as the facilitator) to resolve a dispute relating to the bargaining.
- (2) The Authority may accept a reference for facilitation from any party, or 2 or more parties, to bargaining if the Authority is satisfied that—
- (a) the dispute is interfering with the bargaining or the ability of the parties to conclude a collective contract; and
 - (b) the parties have made sufficient efforts at mediation to resolve their difficulties.
- (3) ~~However, if the bargaining parties remain at a standstill in relation to 1 or more terms, the effect being that bargaining is prevented from being completed (and a collective contract concluded), the parties must attempt facilitation (with a member of the Authority as the facilitator) before the Authority may make a determination in relation to those terms by final offer arbitration (see **section 59(3)**).~~
- (4) The Authority must carry out any facilitation under this section as if it were a facilitation under the Employment Relations Act 2000, subject to the modifications to the provisions of that Act specified in the following paragraphs:
- (a) sections 50A, 50B, 50C(1) and (2), and 50J do not apply; and
 - (b) sections 50C(3), 50D to 50G, and 50I apply with any necessary modifications; and
 - (c) section 50H applies, except that the Authority must make 1 or more recommendations on the matters referred to in subsection (1)(a) and (b) of that section; and
 - (d) the Authority may refer the parties to the facilitation back to mediation if it considers that further mediation would be beneficial to resolving the dispute concerned.
- (5) If the dispute remains unresolved at the end of facilitation, ~~the parties~~ any party to the dispute may apply to the Authority under **section 59(1) or 59A(2)** for a determination.

59 Determinations—~~Determination of disputes~~ by Authority

- (1) ~~A party to a workplace relationship or a party to collective bargaining dispute may apply to the Authority for a determination on any dispute between the party and any other party to the relationship or collective bargaining. of that~~

dispute, by lodging an application in the manner prescribed by the regulations (if any), and paying the fee prescribed by the regulations (if any).

- (1A) **Subsection (1)** does not apply to a dispute about an exemption from a term of an occupational contract under **section 49C**.
- (2) The Authority must determine the dispute as if it were determining a dispute under the Employment Relations Act 2000, and, for that purpose,—
- (a) section 159 of that Act applies (taking into account the concept of good faith adopted under this Act); and
 - (b) sections 159A to 178 of that Act apply with any necessary modifications.
- (3) ~~Despite **subsection (2)**, the Authority must use the final offer arbitration process set out in **Schedule 4** to fix terms in a collective contract if—~~
- ~~(b) the bargaining falls within the circumstances described in **section 58(3)**; and~~
 - ~~(c) the Authority is satisfied that the parties have made sufficient efforts to resolve the dispute through mediation and facilitation.~~
- (5) ~~Despite **subsection (3)**, the bargaining parties may otherwise settle the dispute before the Authority fixes the terms, provided the manner in which they do so does not involve the fixing of the terms of an occupation-level collective contract by a third party (in breach of **section 35B(5)**).~~
- (6) ~~All applications for a determination, including those referred to in **subsection (3)**, are to be commenced by the lodging of an application in the prescribed form (if any).~~
- (7) The Authority has exclusive jurisdiction to make determinations for the purposes of this section.

59A Application to fix disputed terms

- (1) This section applies if bargaining parties remain at a standstill in relation to 1 or more terms (**disputed terms**), with the effect that bargaining is prevented from being completed and a collective contract is unable to proceed to ratification.
- (2) A party may apply for the Authority to fix the disputed terms by lodging an application in the manner prescribed by the regulations (if any), and paying the fee prescribed by the regulations (if any).
- (3) The Authority has exclusive jurisdiction to make determinations fixing terms in occupational contracts.

59B Use of final arbitration process to fix disputed terms

- (1) The Authority may fix disputed terms in a collective contract only if—
- (a) the circumstances described in **section 59A(1)** exist; and

- (b) facilitation under **section 58** has taken place and has not resolved the disputed terms; and
 - (c) the Authority is satisfied that the parties have reached agreement on all terms of the collective contract, other than the disputed terms; and
 - (d) the Authority is satisfied that the parties have made sufficient efforts to resolve the disputed terms through mediation and facilitation.
- (2) The Authority must use the final offer arbitration process set out in **Schedule 4** to fix the disputed terms in a collective contract.
- (3) Except to the extent that the final arbitration process differs, when the Authority is determining an application under **section 59A(2)**,—
- (a) section 159 of the Employment Relations Act 2000 applies (taking into account the concept of good faith adopted under this Act); and
 - (b) sections 159A to 178 of that Act apply with any necessary modifications.
- (4) Despite **subsection (2)**, the bargaining parties may otherwise settle the disputed terms before the Authority fixes them, provided the manner in which they do so does not involve a third party fixing the terms of an occupational contract (in breach of **section 59A(3)**).

59C Effect of Authority fixing terms

- (1) If the Authority has used the final offer arbitration process to fix disputed terms in a draft occupational contract, the Authority must then assess the draft occupational contract for suitability for ratification in accordance with **section 46**.
- (2) If the Authority has used the final offer arbitration process to fix disputed terms in a draft enterprise contract, the contract is binding and enforceable as if it had been ratified as required by **section 53** and signed by the parties under **section 31(1)(b)**.
- (3) Terms in a collective contract that are fixed by the Authority may be varied by the parties in accordance with **section 49B or 55A** (as applicable).

60 Challenges to determinations

- (1) A party to a matter before the Authority who is dissatisfied with the Authority's determination of it may elect to have the matter heard by the court, unless **subsection (3)** applies.
- (2) For the purposes of a hearing authorised under **subsection (1)**, the Employment Relations Act 2000 applies subject to the modifications to the provisions of that Act specified in the following paragraphs:
- (a) sections 178A, 179, and 180 to 222F apply with any necessary modifications:
 - (b) sections 179A to 179C do not apply.

- (3) A party to a final offer arbitration determination of the Authority may only challenge the decision by way of judicial review under ~~section 194 of the Employment Relations Act 2000, and that section applies with any necessary modification.~~ **section 61.**

61 Review of ~~Authority and Registrar~~ decisions

Section 194 of the Employment Relations Act 2000 applies, with any necessary modifications, to the exercise, refusal to exercise, or proposed or purported exercise ~~by the Authority or the Registrar~~ of a statutory power or statutory power of decision (as those terms are defined by section 4 of the Judicial Review Procedure Act 2016) conferred by or under this Act.

Subpart 2—Penalties and offences

62 Jurisdiction concerning penalties

- (1) The Authority has full and exclusive jurisdiction to deal with all actions for the recovery of penalties for a breach of any provision of this Act for which a penalty is provided under this Act.
- (1A) An action for the recovery of a penalty under this Act may only be taken in accordance with **this subpart.**
- (2) ~~An~~The action must be brought by way of an application under **section 59** to the Authority for a determination.
- (3) In determining an appropriate penalty for a breach, the Authority or the court must have regard to all relevant matters, including—
- (a) the purpose of this Act; and
 - (b) the nature and extent of the breach or involvement in the breach; and
 - (c) whether the breach was intentional, inadvertent, or negligent; and
 - (d) the nature and extent of any loss or damage suffered by any person, or gains made or losses avoided by the person in breach or the person involved in the breach, because of the breach or involvement in the breach; and
 - (e) whether the person in breach or the person involved in the breach has paid an amount of compensation, reparation, or restitution, or has taken other steps to avoid or mitigate any actual or potential adverse effects of the breach; and
 - (f) the circumstances in which the breach, or involvement in the breach, took place, including the vulnerability of any screen production worker concerned; and
 - (g) whether the person in breach or the person involved in the breach has previously been found by the Authority or the court in proceedings under this Act, or any other enactment, to have engaged in any similar conduct.

- (4) The Authority or the court may order that the whole or any part of any penalty recovered must be paid to any person.
- (5) **Subsection (1)** is subject to—
- (a) any determination made by the Authority under **section 59** to which section 177 or 178 of the Employment Relations Act 2000 applies (which allow for the referral or removal of certain matters to the court); and
 - (b) any right to have the matter heard by the court under **section 60**.

63 Recovery of penalties

- (1) This section applies for the purposes of a determination under **section 62**.
- (2) An action for the recovery of a penalty may be brought,—
- (a) in the case of a breach ~~of relating to~~ an individual contract, by ~~any party to the contract~~ anyone to whom the contract applies who is affected by the breach;
 - (b) in the case of a breach during bargaining for a collective contract, by any party to the bargaining who is affected by the breach;
 - (c) in the case of a breach ~~of relating to~~ a collective contract, by ~~any signatory party to the contract~~ anyone to whom the contract applies who is affected by the breach;
 - (d) in any other case, by any person in relation to whom the breach is alleged to have taken place;
 - (e) by a worker organisation or an engager organisation on behalf of any person referred to in **paragraphs (a) to (d)**, if the person consents.
- (2A) A breach by an engager of the requirements of **section 3349C** must be treated as a breach of a collective contract for the purposes of **subsection (2)(c)**.
- (3) A person who is liable to a penalty under this Act is liable,—
- (a) in the case of an individual, to a penalty not exceeding \$10,000;
 - (b) in the case of a body corporate, to a penalty not exceeding \$20,000.
- (4) A claim for 2 or more penalties against the same person may be joined in the same action.
- (5) In any claim for a penalty, the Authority or the court (as the case may be) may give judgment for the total amount claimed, or any amount, not exceeding the maximum specified in **subsection (3)**, or the Authority or the court may dismiss the action.
- (6) The Authority or the court may order payment of a penalty by instalments, but only if the financial position of the person paying the penalty requires it.
- (7) An action for the recovery of a penalty under this Act must be commenced within 12 months after the earlier of the following:

- (a) the date on which the cause of action first became known to the person bringing the action:
- (b) the date on which the cause of action should reasonably have become known to the person bringing the action.

64 Penalty for obstructing or delaying Authority investigation

- (1) A person is liable to a penalty under this Act if the person, without sufficient cause, obstructs or delays an Authority investigation, including by failing to attend as a party before an Authority investigation (if required).
- (2) The power to award a penalty under **subsection (1)** may be exercised by the Authority—
 - (a) of its own motion; or
 - (b) on the application of any party to the investigation.

65 Offence to mislead Authority or Registrar

- (1) A person commits an offence if the person does or says anything, or omits to do or say anything, with the intention of misleading or attempting to mislead—
 - (a) the Registrar: or
 - (b) the Authority, in the performance of its functions under **subpart 3 of Part 3**.
- (2) A person who commits an offence under this section is liable on conviction by the court to a fine not exceeding \$5,000.

Part 5

Miscellaneous provisions and amendments to other Acts

Subpart 1AAA—Registration as worker organisation or engager organisation

65A Incorporated society may apply to register as worker organisation or engager organisation

- (1) An incorporated society may apply to the Registrar to be registered as a worker organisation or an engager organisation provided it is entitled to be registered under **section 65B**.
- (2) An application must be made in the manner prescribed by the regulations (if any) and must be accompanied by—
 - (a) a copy of the society’s certificate of incorporation under the Incorporated Societies Act 1908 or the Incorporated Societies Act 2022; and
 - (b) a copy of the society’s rules as registered under that Act; and

- (c) a statutory declaration made by an officer of the society setting out the reasons why the society is entitled to be registered (in terms of **section 65B(1)(a) or (b)**).

65B When society entitled to be registered

- (1) An incorporated society is entitled to be registered as a worker organisation or an engager organisation if the society—
- (a) is a union that, under the Employment Relations Act 2000 or the Trade Unions Act 1908, is registered and holds a current certificate of registration; or
- (b) meets the requirements in **subsection (2)**.
- (2) The requirements are that—
- (a) the object or an object of the society is to promote its members' collective work interests; and
- (b) the society's rules are democratic, not unreasonable, not unfairly discriminatory or unfairly prejudicial, and not contrary to law; and
- (c) the society's rules contain a provision relating to the process for holding 1 or more secret ballots for the purposes of this Act; and
- (d) the society is independent of, and is constituted and operates at arm's length from,—
- (i) any engager or engager organisation, if the society is seeking to be registered as a worker organisation; and
- (ii) any worker organisation, if the society is seeking to be registered as an engager organisation.
- (3) In deciding whether a society is entitled to be registered, the Registrar may rely on the statutory declaration made by its officer under **section 65A(2)(c)**.

65C Registration

- (1) The Registrar must register an incorporated society as a worker organisation or an engager organisation, as the case may be, and provide it with a certificate of registration that contains the information prescribed in the regulations (if any), if the society—
- (a) applies to be registered in accordance with **section 65A**; and
- (b) is entitled to be registered under **section 65B**.
- (2) A certificate of registration is conclusive evidence that—
- (a) the society is registered as a worker organisation or an engager organisation under this Act (on and from the date stated in the certificate); and
- (b) the society has complied with all the requirements of this Act relating to its registration as such an organisation.
- (3) The Registrar must—

- (a) keep, in any manner that the Registrar thinks fit, a register of registered organisations for the purposes of this section; and
- (b) maintain a list of worker organisations and engager organisations on an Internet site maintained by, or on behalf of, the department.

65D Annual return of members

- (1) Each worker organisation or engager organisation must, no later than 1 June in each calendar year, deliver an annual return of members to the Registrar for registration.
- (2) The annual return must—
 - (a) state how many members the organisation had as at 1 March in that year; and
 - (b) be delivered in the manner prescribed in the regulations (if any).
- (3) If a worker organisation has delivered, or will deliver, information required under this section to the Registrar of Unions under section 16 of the Employment Relations Act 2000, the organisation may permit the Registrar to obtain that information from the Registrar of Unions.

65E Cancellation of registration

- (1) The Registrar may cancel the registration of a worker organisation or an engager organisation, but only if—
 - (a) the organisation applies to the Registrar to cancel its registration; or
 - (b) the Authority makes an order directing the Registrar to cancel its registration.
- (2) The Authority may make an order for the purposes of **subsection (1)(b)** only if the organisation has ceased to meet the relevant requirements of **section 65B**.

Subpart 1—Miscellaneous provisions

65F Powers of Authority when performing certain functions

- (1) When performing the functions set out in **subsection (2)**, the Authority may—
 - (a) call for evidence and information from the parties or from any other person:
 - (b) take into account any evidence and information that in equity and good conscience it thinks fit, whether strictly legal evidence or not:
 - (c) follow whatever procedure the Authority considers appropriate.
- (2) The functions are the following:
 - (a) any function under **Part 3** that does not involve the Authority making a determination:

- (b) cancelling the registration of a worker organisation or an engager organisation under **section 65E**:
- (c) giving directions under **section 72** relating to the exercise or performance of the Registrar's powers, duties, and functions under this Act.
- (3) The powers in **subsection (1)** apply in addition to any other powers specified in this Act.

Chief executive

65G Functions of chief executive

The functions of the chief executive under this Act are to promote the purpose of this Act by, among other things,—

- (a) providing information and advice about workplace relationships, including the rights and obligations of screen production workers, engagers, and other interested parties; and
- (b) promoting the effective resolution of workplace relationship problems by providing problem and dispute resolution services; and
- (c) publishing information, reports, and guidelines about workplace relationships.

Access to workplaces

66 Access to workplaces

- (1) A representative of a worker organisation is entitled to enter a workplace for 1 or more of the following purposes:
 - (a) purposes related to the work of—
 - (i) the organisation's members who are screen production workers; or
 - (ii) any other screen production worker to whom a collective contract that the organisation is bargaining for may apply; or
 - (iii) any other screen production worker to whom a collective contract that the organisation is a signatory party to applies:
 - (b) purposes related to the health and safety of any screen production worker at that workplace who is not a member of the worker organisation if the worker has asked for the organisation's assistance in relation to the matter:
 - (c) purposes related to the worker organisation's business.
- (2) Entitlement to access is subject to the representative—
 - (a) requesting and obtaining consent to enter the workplace under **section 67(1)**; and
 - (b) satisfying the requirements of **sections 68 and 69**.

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- (3) A purpose is within the scope of **subsection (1)(a)** if it relates to 1 or more of the following:
- (a) participation in bargaining for a collective contract:
 - (b) dealing with matters concerning the health and safety of the workers:
 - (c) monitoring compliance with the operation of a collective contract:
 - (d) monitoring compliance with this Act:
 - (e) with the consent of a worker, dealing with matters relating to that worker's individual contract, proposed individual contract, terms and conditions of work, or proposed terms and conditions of work.
- (4) A purpose is within the scope of **subsection (1)(c)** if it relates to 1 or more of the following:
- (a) discussing the organisation's business with its members:
 - (b) seeking to recruit screen production workers as members of the organisation:
 - (c) providing information about the organisation and its membership to any screen production worker at the workplace.
- (5) A discussion in a workplace between a screen production worker and a representative under this section must not exceed a reasonable duration.
- ~~(6) An engager must not deduct any amount payable to a worker by the engager in respect of the time during which the worker takes part in a discussion referred to in **subsection (5)**.~~
- (6) An engager must not deduct any amount payable to a worker for the time the worker is in a discussion referred to in **subsection (5)**.

67 Representative of worker organisation must obtain consent to enter workplace

- (1) Before entering a workplace, a representative of a worker organisation entitled to enter in accordance with **section 66** must request and obtain the consent of the person in control of the workplace.
- (2) The person in control may refuse consent only if—
- (a) the person reasonably believes the representative does not satisfy the criteria for access under **section 66(1)**; or
 - (b) the entry would unreasonably impede screen production activities to the extent that—
 - (i) the entry would prevent production or require it to be temporarily discontinued (for example, if sensitive material is being produced and access to the workplace might require the shooting of a particular scene to be stopped in order to protect the material); and

- (ii) the impediment could not be overcome by imposing on the representative conditions or further conditions (as the case may be) under **section 68(2)**.
- (3) The person in control must advise the representative, in writing, of the person's decision, including any reasonable conditions imposed on the entry in accordance with **section 68(2)**, as soon as is reasonably practicable, but no later than the day after the date on which the request is received (and must give reasons if the person refuses consent).
- (4) The person in control may revoke consent to enter the workplace if—
 - (a) there is a change in circumstances and entry to the workplace or any part of the workplace might unreasonably impede screen production activities in the manner described in **subsection (2)(b)**; or
 - (b) the representative is no longer entitled to enter the workplace because the purpose entitling the representative to access under **section 66(1)** no longer applies; or
 - (c) the representative does not comply with any reasonable conditions imposed on the entry under **section 68(2)**.
- (5) If consent is revoked, the person in control must give the representative written reasons for the revocation no later than the day after the date on which consent is revoked.

68 Conditions relating to access

- (1) A representative of a worker organisation entitled to enter a workplace may do so if the representative believes, on reasonable grounds,—
 - (a) that a screen production worker referred to in **section 66(1)(a) or (b)** is working or normally works at the workplace; or
 - (b) that the entry is related to the organisation's business.
- (2) A representative must comply with any reasonable condition of entry that the person in control of the workplace may impose in relation to 1 or more of the following purposes:
 - (a) minimising disruption to screen production activity;
 - (b) protecting commercially sensitive or confidential information;
 - (c) managing risks to the health and safety of any person at the workplace;
 - (d) maintaining security.

69 Additional requirements relating to access

- (1) A representative of a worker organisation entitled to enter a workplace must, at the time of the initial entry and, if requested by the person in control of the workplace, at any time after entering the workplace,—
 - (a) state the purpose of the entry (in terms of **section 66(1)**); and

- (b) produce evidence of consent to entry; and
 - (c) produce evidence of the representative's identity and authority to represent the worker organisation concerned.
- (2) A representative who fails to produce any information required under **subsection (1)** may be refused access.
- (3) If a representative with consent to enter a workplace is unable, despite reasonable efforts, to find, at the time of entering the workplace, the person in control, the representative must leave in a prominent place at the workplace a written statement of—
- (a) the representative's identity; and
 - (b) the worker organisation represented; and
 - (c) the date and time of entry; and
 - (d) the purpose or purposes of entry (in terms of **section 66**).

70 Penalty for certain acts in relation to entering workplace

- (1) A person in control of a workplace is liable to a penalty under this Act if the person,—
- (a) without lawful excuse under **section 67(2)**, refuses consent for entry to a workplace by a representative of a worker organisation; or
 - (b) without lawful excuse under **section 67(4)**, revokes consent for entry to a workplace by a representative of a worker organisation; or
 - (c) imposes conditions on entry to a workplace other than in accordance with **section 68(2)**; or
 - (d) without lawful excuse, otherwise obstructs a representative of a worker organisation entitled to enter a workplace from entering the workplace or doing anything reasonably necessary for or incidental to the purpose for entering.
- (2) A representative of a worker organisation is liable to a penalty under this Act if the representative—
- (a) wilfully enters a workplace in breach of **section 68(1)**; or
 - (b) having lawfully entered a workplace under **section 68(1)**, wilfully fails to comply with any reasonable condition of entry imposed under **section 68(2)**; or
 - (c) wilfully fails to comply with **section 69(1) or (3)**.

Registrar of Screen Industry Organisations

71 Registrar of Screen Industry Organisations

- (1) The chief executive—
- (a) must appoint a Registrar of Screen Industry Organisations; and

- (b) may appoint a Deputy Registrar of Screen Industry Organisations.
- (2) The Registrar and Deputy Registrar may be employees of the department and may hold any other office or position in the department.
- (3) Subject to the control and direction of the Registrar, the Deputy Registrar has, and may exercise or perform, all the powers, duties, and functions of the Registrar.

72 Registrar may seek directions of Authority

- (1) The Registrar may apply to the Authority for directions relating to the exercise or performance of the Registrar's powers, duties, and functions under this Act.
- (2) An application must be served on all persons who, in the Registrar's opinion, are interested in the application.

Matters relating to occupational groups

73 Occupational groups

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 31A**.
- (2) An order may insert in or delete from **Schedule 31A** categories of screen production workers as occupational groups for the purposes of identifying those screen production workers to whom ~~occupation-level collective occupational~~ contracts may apply.
- (3) If an order has the effect of deleting an occupational group that comprises screen workers to whom an existing ~~occupation-level collective occupational~~ contract applies, the order must provide that it comes into force on a date that is after the date on which the existing contract expires.
- (4) ~~Before recommending the making of an order, the Minister must consult (or be satisfied that the chief executive has consulted on the Minister's behalf) persons that appear to the Minister or the chief executive likely to have an interest in the order.~~
- (4) Before recommending the making of an order, the Minister must—
- (a) consult (or be satisfied that the chief executive has consulted on the Minister's behalf) persons that appear to the Minister or the chief executive to be likely to have an interest in the order; and
- (b) be satisfied that the amendment to **Schedule 1A** will not have the effect that work done by a screen production worker does not fall within any occupational group.
- (4A) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

- (5) In this section, **Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act.

74 Further matters relating to change in occupational groups

- (1) This section applies if an Order in Council made under **section 73** creates a new occupational group in **Schedule 31A**.
- (2) Bargaining for and ratification of an ~~occupation-level collective occupational~~ contract in relation to the new occupational group may be carried out (in accordance with **subpart 3 of Part 3**) at any time after the order comes into force.
- (3) **Subsection (4)** applies to a screen production worker who is covered by an ~~occupation-level collective occupational~~ contract (the **current contract**) but who, once any collective contract referred to in **subsection (2)** comes into force, will be covered by that contract (the **new collective contract**).
- (4) The new collective contract is deemed to apply to the worker from the date on which it comes into force, irrespective of whether—
- (a) the current contract is still in force; and
 - (b) the terms of the new collective contract are less favourable to the worker than those of the current contract.

Regulations

75 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for 1 or more of the following purposes:
- (a) ~~prescribing how applications under **sections 21(2) and 37(2)** must be made;~~
 - (b) ~~prescribing the form of a certificate of registration for the purposes of **section 23(1)**;~~
 - (c) ~~prescribing documentation or information for the purposes of **sections 21(2)(d), 24(b), and 37(2)(e)**;~~
 - (d) ~~prescribing, for the purposes of **section 39**,—~~
 - (i) ~~the form in which submissions must be given; and~~
 - (ii) ~~the minimum requirements as to the content of submissions (which may be different requirements for different categories of persons);~~
 - (e) ~~prescribing how notice must be given under **section 47(4)**;~~
 - (f) ~~prescribing the form for applications for a determination under **section 59(6)**;~~

- (g) ~~providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.~~
- (a) providing for anything this Act says may or must be provided for by regulations; and
- (b) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.
- (2) ~~Regulations made for the purposes of **subsection (1)(d)(ii)** may only require information that is necessary for the Authority to make a decision under **section 40**.~~
- (2) Regulations made under **subsection (1)** for the purposes of a section of this Act that requires a thing to be done in a prescribed manner may prescribe—
 - (a) by whom, when, where, and how the thing must be done;
 - (b) the form, format, method, or medium that must be used in connection with doing the thing;
 - (c) what information or other evidence or documents must be provided in connection with the thing;
 - (d) requirements with which information, evidence, or documents that are provided in connection with the thing must comply.
- (3) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

Review of Act

75A Review of Act

- (1) The Minister must, before the fifth anniversary of the commencement of this Act,—
 - (a) commence a review of its operation; and
 - (b) prepare a report on that review.
- (2) The Minister must ensure that, during the review, the people and organisations that the Minister thinks appropriate are consulted.
- (3) The Minister must present the report to the House of Representatives as soon as practicable after it has been completed.

Subpart 2—Amendments to Employment Relations Act 2000

76 Amendments to Employment Relations Act 2000

This subpart amends the Employment Relations Act 2000.

77 Section 6 amended (Meaning of employee)

- (1) Repeal section 6(1)(d) and (1A).
- (2) After section 6(4), insert:

(4A) Nothing in this section applies to determine the employment status of a person who falls within the meaning of screen production worker in **section 11** of the Screen Industry Workers Act **2020**.

(3) Repeal section 6(7).

77A Section 16 amended (Annual return of members)

In section 16, insert as subsection (2):

(2) If a union has delivered, or will deliver, information required under this section to the Registrar of Screen Industry Organisations under **section 65D** of the Screen Industry Workers Act **2020**, the union may permit the Registrar of Unions to obtain that information from the Registrar of Screen Industry Organisations.

77B Section 137 amended (Power of Authority to order compliance)

After section 137(1)(b), insert:

(c) any order, determination, direction, or requirement made or given under the Screen Industry Workers Act **2020** by the Authority or a member or an officer of the Authority.

78 Section 161 amended (Jurisdiction)

After section 161(3), insert:

(4) The Authority has jurisdiction to perform and exercise the functions and powers conferred on it by the Screen Industry Workers Act **2020**.

79 Section 187 amended (Jurisdiction of court)

In section 187(1)(m), after “any other Act”, insert “, including the Screen Industry Workers Act **2020**”.

Schedule 1

Transitional, savings, and related provisions

s 9

Part 1

Provision relating to this Act as enacted

1 Contracts entered into before commencement of Act

- (1) This clause applies to a contract entered into between a screen production worker and an engager (as those terms are defined in this Act) before the commencement of this Act (the **pre-commencement contract**).
- (2) ~~The terms and conditions of the pre-commencement contract apply for 12 months after the commencement of this Act, as if this Act had not been enacted.~~
- (3) ~~At the end of the 12-month period,—~~
 - (a) ~~the contract must be treated as if it were an individual contract within the meaning of **section 10** of this Act; and~~
 - (b) ~~the terms and conditions of the contract must be varied (if necessary) to comply with the requirements of this Act no later than the day on which the 12-month period ends.~~
- (2) The provisions of this Act, other than **section 15(1)**, apply to a pre-commencement contract from the date on which this Act comes into force.
- (3) The terms and conditions of a pre-commencement contract must be varied (if necessary) to comply with the requirements of **section 15(1)** no later than the date that is 12 months after the commencement of this Act.
- (4) However, if the pre-commencement contract satisfies the following criteria, the requirement in ~~**section 16A(1)**~~**15(1)** of this Act (to include the mandatory terms in ~~**section 17 16**~~) does not apply to the contract:
 - (a) the screen production worker is a writer as described in **Schedule 31A** of this Act; and
 - (b) the contract was entered into more than 5 years before the commencement of this Act; and
 - (c) the contract includes terms or conditions concerning intellectual property rights between the writer and the engager in relation to a screen production.
- (6) ~~The rest of this Act applies to all pre-commencement contracts from the date on which the Act comes into force (for example, the parties may use the dispute resolution provisions of the Act to resolve any issues that arise).~~

Schedule 1A
Occupational groups

ss 10, 73

Occupational group	Description
<u>Composer</u>	<u>Individuals who create or modify musical compositions for screen productions</u>
<u>Director</u>	<u>Individuals who direct the making of screen productions by visualising scripts while guiding performers and technicians to capture a screen production's vision</u>
<u>Game developer</u>	<u>Individuals who work on, or contribute to, computer-generated games and who do not fall within the description of the composer, director, performer, or writer occupational groups in this schedule</u>
<u>Performer</u>	<u>Individuals who portray roles in screen productions, including stunt persons, narrators, voice-over actors, extras, singers, musicians, and dancers</u>
<u>Technician (post-production)</u>	<u>Individuals who work on, or contribute to, screen productions during the post-production phase, and who do not fall within the description of any other occupational group in this schedule</u>
<u>Technician (production)</u>	<u>Individuals who work on, or contribute to, screen productions before the post-production phase, and who do not fall within the description of any other occupational group in this schedule</u>
<u>Writer</u>	<u>Individuals who write, edit, contribute to, and evaluate scripts and stories for screen productions</u>

Schedule 2

Screen productions to which Act applies

s 12

1 Screen productions to which Act applies

- (1) This Act applies to the following screen productions:
 - (a) computer-generated games:
 - (b) films:
 - (c) programmes.
- (2) Despite **subclause (1)**, this Act does not apply to any screen production of a kind described in **clause 2**.

2 Screen productions to which Act does not apply

This Act does not apply to the following screen productions:

- (a) advertising programmes that are longer than 5 minutes in duration:
- (b) amateur productions:
- (d) game show programmes:
- (e) live event programmes:
- (f) music and dance programmes:
- (g) news and current affairs programmes:
- (h) recreation and leisure programmes:
- (i) religious programmes:
- (j) sports programmes:
- (k) talk show programmes:
- (l) training and instructional programmes:
- (m) variety show programmes.

3 Interpretation

In this Act, unless the context otherwise requires,—

advertising programme has the meaning set out in section 2(1) of the Broadcasting Act 1989

amateur production—

- (a) means a screen production—
 - (i) in which screen production workers take part for their own enjoyment; and
 - (ii) that is conducted for the recreation or entertainment of the general public or a select group of people; and

- (iii) from which the workers do not derive an income; and
- (b) includes productions that meet the requirements of **paragraph (a)** and that are made in the course of education and training

computer-generated game means a screen production that is a game generated by a computer, where the way in which the game proceeds depends on the decisions, inputs, and direct involvement of the player

film means a screen production that is a motion picture (for example, a feature film or a documentary film)

game show programme—

- (a) means a programme that features a game of skill or chance or a quiz that offers winning participants a prize; but
- (b) does not include a programme that is a reality show in which the overarching narrative or story is a game in which participants compete against each other over more than 1 episode to win a title or prize

live event programme—

- (a) means a programme in which more than 50% of the content comprises 1 or more live events; and
- (b) includes a recording of live theatre or an award show; but
- (c) does not include a programme that is recorded in front of a live audience, if the presence of the live audience is incidental to the recording of the programme

music and dance programme—

- (a) means a programme in which more than 50% of the content comprises 1 or more live or prerecorded performances of music or dance (for example, recordings of opera, operetta, ballet, and musicals); but
- (b) does not include a music or dance programme that is a reality show in which participants compete against each other over more than 1 episode to win a title or prize

news and current affairs programme—

- (a) means a programme that reports on or analyses local, national, or international events; and
- (b) includes discussion and panel programmes in relation to such events

programme—

- (a) means a screen production, other than a film or a computer-generated game, that is a programme as defined in section 2(1) of the Broadcasting Act 1989; and
- (b) to avoid doubt, includes—
 - (i) a programme that consists of a single episode or a season or series of episodes:

- (ii) an advertising programme:
- (iii) an election programme as defined in section 69(1) of the Broadcasting Act 1989

recreation and leisure programme means a programme that presents information on—

- (a) recreation, hobbies, or skill development:
- (b) recreational sports and outdoor activities:
- (c) travel and leisure:
- (d) employment opportunities

religious programme means a programme in which more than 50% of the content comprises religious teachings

sports programme means—

- (a) a programme that comprises—
 - (i) a live or pre-recorded sports event or competition:
 - (ii) review and analysis of 1 or more sports events or teams (for example, a sporting news and panel show); and
- (b) an e-sports programme

talk show programme—

- (a) means a programme in which more than 50% of the content comprises a host or hosts discussing a topic or a variety of topics; and
- (b) includes such a programme that features—
 - (i) a guest or guests who appear with the host or hosts:
 - (ii) musical performances, games, or cooking segments

training and instructional programme means a programme that is intended to be viewed primarily for the purpose of the viewer acquiring or developing a skill or knowledge

variety show programme means a programme—

- (a) in which more than 50% of the content is of a mixed character (for example, not exclusively musical or comedic performances); and
- (b) that comprises a number of individual acts (for example, singing, dancing, acrobatic exhibitions, comedy sketches, monologues, or magical tricks).

Schedule 3 Occupational groups

ss 10, 73

Occupational group	Description
Composer	Individuals who create or modify musical compositions for screen productions
Director	Individuals who direct the making of screen productions by visualising scripts while guiding performers and technicians to capture a screen production's vision
Game developer	Individuals who work on, or contribute to, computer-generated games and who do not fall within the description of the composer, director, performer, or writer occupational groups in this schedule
Performer	Individuals who portray roles in screen productions, including stunt persons, narrators, voice-over actors, extras, singers, musicians, and dancers
Technician (post-production)	Individuals who work on, or contribute to, screen productions during the post-production phase, and who do not fall within the description of any other occupational group in this schedule
Technician (production)	Individuals who work on, or contribute to, screen productions before the post-production phase, and who do not fall within the description of any other occupational group in this schedule
Writer	Individuals who write, edit, contribute to, and evaluate scripts and stories for screen productions

Schedule 4

Final offer arbitration for fixing terms of collective contract

s ~~59(3)~~59B(2)

1 Parties

The parties to an arbitration must consist of—

- (a) 1 worker organisation or more than 1 worker organisation acting jointly (the **worker party**); and
- (b) 1 engager or 1 engager organisation, or more than 1 engager organisation acting jointly (the **engager party**).

2 Arbitrating body

- (1) The arbitrating body is a panel of the Authority appointed from time to time under this clause.
- (2) The arbitrating body must consist of 1 member of the Authority appointed by the Chief of the Authority.
- (3) However, the arbitrating body must include additional members, if nominated in accordance with the following rules:
 - (a) 1 or 2 members to be nominated by the worker party:
 - (b) 1 or 2 members to be nominated by the engager party:
 - (c) the number of members nominated under **paragraph (a)** must be the same as the number nominated under **paragraph (b)**.
- (4) The arbitrating body must be chaired by the individual appointed under **subclause (2)**.
- (5) An individual appointed under **subclause (3)** who is not a member of the Authority has and enjoys, in the performance of the person's duties under this Act, the same protection as a member of the Authority under section 176 of the Employment Relations Act 2000.

3 Statement as to state of negotiations

The worker party and the engager party must each provide the arbitrating body with a signed statement as to—

- (a) ~~the issues~~ terms in dispute; and
- (b) the position on ~~those issues~~ terms of the party providing the statement; and
- (c) full particulars of the final offer being made by the party providing the statement.

4 Copies of statement

When the arbitrating body has received both of the statements required under **clause 3**, it must supply—

- (a) a copy of the engager party’s statement to the worker party; and
- (b) a copy of the worker party’s statement to the engager party.

5 Hearing and determination of dispute

- (1) The arbitrating body, after giving the parties an opportunity to be heard, must, in accordance with the provisions of this schedule, hear and determine the dispute and fix the terms of the collective contract.
- (2) The arbitrating body must, at the conclusion of the hearing and before making its determination, give each of the parties the opportunity to restate in writing, within a specified time or before a specified date, its final offer.
- (3) If a party restates its final offer, the offer as restated is that party’s final offer for the purposes of **clause 8**.

6 Mandatory criteria for arbitrating body

The arbitrating body, in hearing and determining a dispute in relation to a proposed collective contract, must have regard to—

- (a) screen industry practices and norms, including the evolution and development of screen industry practices and norms; and
- (b) the impact of the terms offered on current and potential screen production activity during the term of the contract; and
- (c) the impact of the terms offered on current and potential screen production workers during the proposed term of the contract; and
- (d) the terms that the parties have agreed; and
- (e) relativities within the proposed contract, and between the proposed contract and other collective contracts; and
- (f) the nature of working relationships covered by this Act; and
- (g) any relevant information provided by parties.

7 Application of criteria

In applying the criteria, the arbitrating body is not bound by historical precedent and practice of any sort.

8 Duty of arbitrating body to accept 1 final offer

- (1) In fixing the terms of the collective contract, the arbitrating body must accept in full either the final offer presented by the worker party or the final offer presented by the engager party.
- (2) The decision of the arbitrating body must be decided by majority vote if the body comprises 3 or more members.

- (3) One of the voters in the majority must be the chairperson.

9 Power of arbitrating body to waive technical irregularities

The arbitrating body, in its discretion, may waive any technical irregularity or omission that may have occurred in the submission or reference of a dispute to the arbitrating body, if it is satisfied that the provisions of this Act, including this schedule, have been substantially complied with.

10 ~~Process matters~~

~~Sections 159A to 178 of the Employment Relations Act 2000 apply, with any necessary modifications, for the purposes of conducting an arbitration under this schedule.~~