



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">PRELIMINARY</p> <p>2. Interpretation</p> <p>3. Training contracts to have effect as employment contracts</p> <p>4. Act binds the Crown</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">RECOGNITION OF INDUSTRY TRAINING ORGANISATIONS AND FUNDING OF TRAINING ACTIVITIES</p> <p>5. Board may recognise certain organisations</p> <p>6. Board to be satisfied of organisation's abilities</p> <p>7. Matters to which Board is to have regard before recognising organisations</p> <p>8. Provisional recognition</p> <p>9. Expiry and cancellation of recognition</p> <p>10. Board may agree with industry training organisation to fund setting of standards and administration of training</p> <p>11. Matters to which Board must have regard in determining whether to enter into agreement</p>	<p>12. Board may require industry training organisation to provide information</p> <p>13. Additional functions of agency</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">TECHNICIANS TRAINING ACT 1967 AND APPRENTICESHIP ACT 1983</p> <p>14. Technicians Training Act 1967 and Apprenticeship Act 1983 repealed</p> <p>15. Transitional</p> <p>16. Certain repealed provisions deemed to form part of existing contracts</p> <p>17. Powers of Board in relation to existing contracts</p> <p>18. Powers of Board in relation to other training programmes</p> <p>19. Consequential amendment</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">INDUSTRIAL TRAINING LEVIES ACT 1978 AND VOCATIONAL TRAINING ACT 1982</p> <p>20. Commencement of provisions deferred for 2 years</p> <p>21. Repeals</p> <p>22. Industry training boards dissolved</p> <p>23. Employers may be levied to meet shortfall in assets of dissolved board Schedules</p>
---	---

1992, No. 55

An Act to—

- (a) Provide for the recognition and funding of organisations (to be known as industry training organisations) setting skill standards for, and administering the delivery of, industry-based training; and**
- (b) Encourage and improve industry-based training; and**
- (c) Repeal the Technicians Training Act 1967 and the Apprenticeship Act 1983, and provide for the**

continued administration of contracts under those Acts; and

- (d) Provide for the protection of people receiving industry-based training under certain training arrangements in the nature of apprenticeship, or under contracts under the Technicians Training Act 1967 or the Apprenticeship Act 1983; and**

(e) Provide for other related matters [19 June 1992]

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

1. Short Title and commencement—(1) This Act may be cited as the Industry Training Act 1992.

(2) Except as provided in section 20 of this Act, this Act shall come into force on the 1st day of July 1992.

PART I

PRELIMINARY

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

“Agency” means the Education and Training Support Agency established by section 270 (1) of the Education Act 1989:

“Applicant organisation” means a body corporate that has applied to the Board for recognition under section 5 of this Act:

“Apprenticeship contract” means a contract of apprenticeship, registered under section 19 of the Apprenticeship Act 1983, that was in force immediately before the 1st day of July 1992:

“Board” means the Board of the agency, constituted under section 272 of the Education Act 1989:

“Employment contract” has the same meaning as in the Employment Contracts Act 1991:

“Funding agreement” means an agreement under subsection (1) or subsection (2) of section 10 of this Act:

“Industry” means 2 or more enterprises that use—

(a) Similar inputs and methods of production to produce similar products; or

(b) Similar methods to provide similar services;—
and, in relation to any industry training organisation, means the industry in respect of which the organisation is for the time being recognised:

“Industry training” means systematic training, provided for people employed in an industry (or 2 or more industries)—

(a) By or on behalf of employers in the industry (or industries); or

(b) For the benefit of employers and employees in the industry (or industries),—

in skills characteristic of, or likely to be valuable to, people engaged in the industry (or industries):

“Industry training organisation” means a body corporate for the time being recognised under section 5 or section 8 (1) of this Act:

“Minister” means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“Qualifications authority” means the New Zealand Qualifications Authority established by section 248 (1) of the Education Act 1989:

“Recognise” means recognise for the purposes of this Act:

“Satisfied” means satisfied on reasonable grounds:

“Similar” includes the same, and related:

“Skills” includes methods and knowledge:

“Skill standard”,—

(a) Means a specification of skills, and levels of performance in those skills; and

(b) In relation to any industry training (or proposed industry training), means a specification of some or all of the skills in which training is (or is proposed to be) received, and the levels of performance in those skills intended to be attained by people receiving the training:

“Technician’s contract” means a contract (within the meaning of section 2 of the Technicians Training Act 1967) that was in force immediately before the 1st day of July 1992:

“Technicians’ determination” means a determination under section 4 of the Technicians Training Act 1967 (whether or not at any time amended or consolidated under that Act) that was in force immediately before the 1st day of July 1992:

“Training board” means an industry training board established under the Vocational Training Act 1982.

3. Training contracts to have effect as employment contracts—Any contract between an employer and an employee that relates to the employee's receiving, or provides for the employee to receive, industry training (whether provided by the employer or provided by some other person) shall for all purposes be deemed to be part of the employee's employment contract.

4. Act binds the Crown—This Act binds the Crown.

PART II

RECOGNITION OF INDUSTRY TRAINING ORGANISATIONS AND FUNDING OF TRAINING ACTIVITIES

5. Board may recognise certain organisations—Subject to section 6 of this Act, the Board may, by notice in the *Gazette* specifying the name of the body and the industry in respect of which it is recognised, recognise in respect of any industry any body corporate that applies to the Board to be recognised in respect of that industry.

6. Board to be satisfied of organisation's abilities—The Board shall not recognise an applicant organisation in respect of any industry unless satisfied, having consulted the qualifications authority and having had regard to the matters specified in section 7 of this Act, that the organisation (either alone, or as 1 of 2 or more recognised organisations acting in respect of training relevant to all their industries) can effectively and efficiently—

- (a) Set for the industry in respect of which the organisation wishes to be recognised (or that industry and the other industry or industries concerned) skill standards that the qualifications authority is likely to be prepared to register; and
- (b) Develop arrangements for the delivery of industry training that will enable trainees to attain those standards, including arrangements (being arrangements likely to be acceptable to the qualifications authority) for—
 - (i) The monitoring of the training so as to ensure that it enables trainees to attain those standards; and
 - (ii) The assessing of trainees and of the extent to which they have in fact attained those standards.

7. Matters to which Board is to have regard before recognising organisations—The matters to which the Board is to have regard before recognising an applicant organisation are—

- (a) The extent to which the organisation represents and is funded by employers of people engaged in the industry in respect of which the organisation wishes to be recognised; and
- (b) The organisation's—
 - (i) Knowledge of; and
 - (ii) Likely responsiveness to the level of demand within that industry for industry training that will enable trainees to attain,—
the skills, and the levels of performance in those skills, that that industry needs; and
- (c) The organisation's resources of skill and knowledge generally; and
- (d) The organisation's intentions in relation to the involvement of people employed in that industry in the doing of the things referred to in paragraphs (a) and (b) of section 6 of this Act; and
- (e) The desirability of avoiding unnecessary duplication of effort in the doing of those things; and
- (f) The extent to which the organisation intends that the industry training whose delivery is to be arranged should extend through a range of levels in the framework for national qualifications in post-school education and training developed by the qualifications authority under section 253 (1) (c) of the Education Act 1989; and
- (g) Any other matters in that behalf specified in the agency's charter.

8. Provisional recognition—(1) Notwithstanding section 6 of this Act, if not satisfied that an applicant organisation meets all the requirements of that section, but satisfied that—

- (a) By taking certain actions the organisation will be able to meet all those requirements; and
- (b) In all the circumstances, it is appropriate that in the meantime the Board should be able to enter into funding agreements with the organisation,—
the Board may, by written notice to the organisation, provisionally recognise it.

- (2) The notice shall specify—
- (a) The actions the organisation should take to meet the requirements of section 6 of this Act; and
 - (b) The period (not exceeding 3 years) from the date of the notice for which provisional recognition has been granted.

9. Expiry and cancellation of recognition—(1) The recognition of an industry training organisation under section 5 of this Act expires 5 years after it is granted.

(2) The recognition of an industry training organisation under section 8 (1) of this Act expires when—

- (a) The period for which it was granted expires; or
- (b) The organisation is recognised under section 5 of this Act.

(3) The Board may cancel the recognition of an industry training organisation under this Act (with immediate effect)—

- (a) If it asks the Board to cancel its recognition; or
- (b) If the Board is satisfied that the organisation no longer exists.

(4) Nothing in this section prevents a body corporate whose recognition under this Act—

- (a) Has expired or is about to expire; or
- (b) Has been cancelled under subsection (3) (a) of this section,—

from applying to be recognised under section 5 of this Act, and being recognised under that section or section 8 (1) of this Act, in respect of any industry.

10. Board may agree with industry training organisation to fund setting of standards and administration of training—(1) Subject to section 11 of this Act, the Board may, after consulting the qualifications authority, enter into a written agreement with an industry training organisation (or 2 or more industry training organisations), providing for the organisation (or organisations) to—

- (a) Set skill standards for its industry (or their industries); and
- (b) Develop arrangements for the delivery (not being delivery by the organisation itself or organisations themselves) of industry training intended to enable trainees to attain those standards, including arrangements for—
 - (i) The monitoring of the training so as to ensure that it enables trainees to attain those standards; and
 - (ii) The assessing of trainees and of the extent to which they have in fact attained those standards; and

(c) Receive funding from the Board for the purpose.

(2) Subject to section 11 of this Act, the Board may, after consulting the qualifications authority, enter into a written agreement with an industry training organisation (or 2 or more industry training organisations), providing for the organisation (or organisations) to make arrangements for the delivery (not being delivery by the organisation itself or organisations themselves) of—

(a) Industry training that will enable trainees to attain skill standards previously set by the organisation (or organisations) and registered by the qualifications authority, including arrangements accepted by the qualifications authority for—

(i) The monitoring of the training so as to ensure that it enables trainees to attain those standards; and

(ii) The assessing of trainees and of the extent to which they have in fact attained those standards; or

(b) Industry training under apprenticeship contracts, technician's contracts, or programmes of industry training recognised under section 18 (a) of this Act, that will enable trainees to attain skill standards likely to be registered by the qualifications authority, including arrangements likely to be accepted by the qualifications authority for—

(i) The monitoring of the training so as to ensure that it enables trainees to attain the levels of skill intended; and

(ii) The assessing of trainees and of the extent to which they have in fact attained those levels of skill;—

and to receive funding from the Board for the purpose.

(3) Every funding agreement shall—

(a) Specify agreed levels of performance for the industry training organisation that has entered into it (or the industry training organisations that have entered into it); and

(b) Provide for the variation, suspension, and termination of funding if those levels of performance are not achieved.

11. Matters to which Board must have regard in determining whether to enter into agreement—In determining whether to enter into a funding agreement with an industry training organisation (or any industry training

organisations), the Board shall have regard to the following matters:

- (a) The amount of training to which it relates, and the likely number of trainees to be trained under it; and
- (b) The desirability of introducing into the organisation's industry (or the organisations' industries) skills (whether new skills or enhanced existing skills) likely to increase its (or their) international competitiveness; and
- (c) The desirability of extending industry training to industries, or areas of any industry (or industries), where industry training linked to nationally recognised qualifications has not traditionally been available; and
- (d) The desirability of extending industry training to people of a kind or description specified in the Board's charter as people to whom industry training linked to nationally recognised qualifications has not traditionally been available (whether within any industry or industries, or generally); and
- (e) Any other matter specified in that behalf in the Board's charter.

12. Board may require industry training organisation to provide information—For the purpose of determining the extent to which the agreed levels of performance specified in a funding agreement are being or have been met, the Board may, by written notice to the industry training organisation concerned (or, as the case may be, to any of the industry training organisations concerned), require it to give to the Board in writing any financial report, or statistical or other information, in relation to the organisation's activities, (being a report or information relating, wholly or in part, to activities provided for in the agreement) specified in the notice; and the organisation shall take all reasonable steps to comply with the notice.

13. Additional functions of agency—In addition to the functions given to the agency by or under enactments other than this Act, the agency has the following functions (and Part XXI of the Education Act 1989 shall have effect accordingly):

- (a) To promote the wide availability within industry of high quality industry training linked to nationally recognised qualifications:

- (b) To promote the availability of industry training linked to nationally recognised qualifications to people of a kind or description specified in the Board's charter as people to whom such training has not traditionally been available (whether within any industry or industries, or generally):
- (c) To administer and disburse public money appropriated by Parliament for the purpose of industry training:
- (d) To promote, in accordance with its charter, the protection of the interests of—
 - (i) People receiving training under apprenticeship contracts or technician's contracts; and
 - (ii) People receiving training under programmes of industry training recognised under section 18 (a) of this Act:
- (e) To ensure that there are in place, and monitor and ensure the effectiveness of, systems to maintain at a satisfactory level the quality and effectiveness of industry training—
 - (i) Received under apprenticeship contracts or technician's contracts; or
 - (ii) Comprising or forming part of a programme of industry training recognised under section 18 (a) of this Act,—

(other than training in respect of which the qualifications authority has notified the Board that it has registered skill standards and accepted arrangements for monitoring the delivery of the training and assessing trainees).

PART III

TECHNICIANS TRAINING ACT 1967 AND APPRENTICESHIP ACT 1983

14. Technicians Training Act 1967 and Apprenticeship Act 1983 repealed—(1) The Technicians Training Act 1967 and the Apprenticeship Act 1983 are hereby repealed.

(2) The enactments specified in the First Schedule to this Act are hereby consequentially repealed.

(3) The Orders in Council specified in the Third Schedule to this Act are hereby consequentially revoked.

15. Transitional—Notwithstanding section 14 of this Act,—

- (a) Every apprenticeship contract shall continue in existence until the day on which it is expressed to expire or an

earlier day specified for the purpose under section 17 (b) of this Act:

- (b) Every apprenticeship order shall continue in existence, and have effect according to its tenor, until every apprenticeship contract to which it applies has expired, and shall then expire:
- (c) Every technician's contract shall continue in existence until determined according to law:
- (d) Every technicians' determination shall continue in existence, and have effect according to its tenor, until every technician's contract to which it applies has expired, and shall then expire:
- (e) Subject to section 16 of this Act and to paragraph (b) of this section, sections 26 to 189 of, and the First and Second Schedules to, the Employment Contracts Act 1991 shall apply to every technician's contract and apprenticeship contract as if it is an employment contract within the meaning of that Act.

16. Certain repealed provisions deemed to form part of existing contracts—Notwithstanding section 14 of this Act, sections 14 to 19, 23, and 51 of the Apprenticeship Act 1983 shall be deemed to form part of every apprenticeship contract; but as if every reference in sections 14 to 19, and section 23, to a District Commissioner or local committee is a reference to the Board.

17. Powers of Board in relation to existing contracts—

- (1) The Board may—
 - (a) On the recommendation of—
 - (i) An industry training organisation operating in the industry concerned; or
 - (ii) A committee established by the Board for the purpose,—
 - by notice in the *Gazette* amend any technician's determination or apprenticeship order:
 - (b) By written notice to the parties, specifying the reasons for doing so, set a reduced term for any apprenticeship contract:
 - (c) Issue certificates for technician's contracts and apprenticeship contracts successfully completed.
- (2) Of its own motion the Board may, on or after making any amendments to any apprenticeship order, make to any other apprenticeship order or orders any similar amendments that, in

the Board's opinion, are not likely to be controversial or have serious consequences.

18. Powers of Board in relation to other training programmes—The Board may—

- (a) Recognise any programme of industry training (undertaken or to be undertaken pursuant to one or more employment contracts) that, in the Board's opinion, demonstrates (fully or to a large extent) the following characteristics:
 - (i) An obligation on each employee who is undertaking or will undertake the training, and on the employee's employer, to take all reasonable steps to ensure that the employee is taught, and acquires, skills characteristic of or likely to be valuable to people engaged in a particular industry or 2 or more industries;
 - (ii) Provision for most or all of those skills to be acquired by means of practical training in the course of the employee's employment, but with the possibility of the augmentation of the training by formal instruction received elsewhere;
 - (iii) Provision for some formal recognition that the employee has acquired those skills if the employee in fact acquires them;
- (b) Issue certificates of successful completion of programmes of industry training recognised under paragraph (a) of this section (other than programmes in respect of which the qualifications authority has notified the Board that it has registered skill standards and accepted arrangements for monitoring the delivery of training and assessing trainees);
- (c) Establish and disestablish committees for the purposes of this section;
- (d) Delegate to any such committee, unconditionally or subject to any conditions it thinks fit, any of its powers under this section.

19. Consequential amendment—Section 9 of the Minimum Wage Act 1983 is hereby consequentially amended by repealing paragraph (a), and substituting the following paragraph:

- “(a) Apprentices under apprenticeship contracts (within the meaning of section 2 of the Industry Training Act 1992):”.

PART IV

INDUSTRIAL TRAINING LEVIES ACT 1978 AND
VOCATIONAL TRAINING ACT 1982

20. Commencement of provisions deferred for 2 years—Sections 21 and 22 of this Act shall come into force on the 1st day of July 1994.

21. Repeals—(1) The enactments specified in the Second Schedule to this Act are hereby repealed.

(2) All notices under the Industrial Training Levies Act 1978 are hereby revoked.

22. Industry training boards dissolved—(1) Every training board is hereby dissolved.

(2) All rights, assets, liabilities, and debts that any training board had immediately before the commencement of this section shall be deemed to have become rights, assets, liabilities, and debts of the Minister.

(3) Where any rights, assets, liabilities, or debts of any training board vest in the Minister under subsection (2) of this section, the Minister shall, in dealing with them, have regard to—

- (a) The desirability of promoting industry training in the industry for which the board was established; and
- (b) The desirability of passing the net assets of the board to an industry training organisation recognised in respect of an industry that is, includes, or forms part of, the industry for which the board was established (or to 2 or more such organisations); and
- (c) Any views the board expressed to the Minister before it was disestablished.

23. Employers may be levied to meet shortfall in assets of dissolved board—Where a training board has been dissolved (whether under the Vocational Training Act 1982 or by section 22 of this Act), the Minister may, by written notice, impose on employers in the industry for which it was established (other than any exempted by the notice) a levy to raise any amount by which its assets are not enough to meet its liabilities and the expenses of or arising out of its dissolution.

SCHEDULES

FIRST SCHEDULE

Section 14 (2)

CONSEQUENTIAL REPEALS

- 1985, No. 4—The Apprenticeship Amendment Act 1985.
- 1987, No. 8—The Official Information Amendment Act 1987: So much of the Third Schedule as relates to the Technicians Training Act 1967. (R.S. Vol. 21, p. 579.)
- 1988, No. 20—The State Sector Act 1988: So much of the Fifth Schedule as relates to the Apprenticeship Act 1983.
- 1988, No. 119—The Trustee Amendment Act 1988: So much of the Second Schedule as relates to the Technicians Training Act 1967.
- 1990, No. 60—The Education Amendment Act 1990: So much of the Second and Fourth Schedules as relates to the Technicians Training Act 1967 or the Apprenticeship Act 1983.
- 1991, No. 23—The Apprenticeship Amendment Act 1991.

SECOND SCHEDULE

Section 21 (1)

ENACTMENTS REPEALED

- 1978, No. 82—The Industrial Training Levies Act 1978.
- 1982, No. 54—The Vocational Training Act 1982.
- 1985, No. 45—The Vocational Training Amendment Act 1985.
- 1988, No. 25—The Industrial Training Levies Amendment Act 1988.
- 1988, No. 40—The Vocational Training Amendment Act 1988.
- 1989, No. 44—The Public Finance Act 1989: So much of the First Schedule as relates to the Industrial Training Levies Act 1978.
- 1989, No. 82—The Labour Department Act Repeal Act 1989: So much of the Schedule as relates to the Industrial Training Levies Act 1978 or the Vocational Training Act 1982.
- 1989, No. 90—The Industrial Training Levies Amendment Act 1989.
- 1990, No. 6—The Education Amendment Act 1990: So much of the Second Schedule as relates to the Industrial Training Levies Act 1978 or the Vocational Training Act 1982.
- 1990, No. 126—The National Provident Fund Restructuring Act 1990: So much of the Sixth Schedule as is expressed to relate to the Vocational Training Act 1982.

Section 14 (3)

THIRD SCHEDULE
CONSEQUENTIAL REVOCATIONS

Title	<i>Gazette Reference</i>
The Building Industry Technician Training Council Order 1969	1969, Vol. I, p. 739
The Dental Technician Training Council Order 1973	1973, Vol. I, p. 683
The Dental Technician Training Council Order 1973, Amendment No. 1	1979, Vol. I, p. 973
The Dental Technician Training Council Order 1973, Amendment No. 2	1980, Vol. III, p. 4113

This Act is administered in the Ministry of Education.
