



Modern Apprenticeship Training Act 2000

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Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Modern Apprenticeship Training Act 2000.

Part 1
Preliminary provisions

2 Commencement

This Act comes into force on 1 January 2001.

3 Purpose of this Act

The purpose of this Act is to encourage and help people (especially those aged 16 years or older, but younger than 22 years) to take up and complete apprenticeship training.

4 Interpretation

In this Act, unless the context otherwise requires,—

Agency means the Agency continued by section 270 of the Education Act 1989 that, immediately before the commencement of this Act, was called Skill New Zealand

apprentice means a person receiving apprenticeship training
apprenticeship co-ordinator—

- (a) means a body corporate, person, or body of persons, with whom the Agency has entered into a funding agreement; and
- (b) in relation to a funding agreement, means the apprenticeship co-ordinator or co-ordinators concerned

apprenticeship training has the meaning given to it by section 5

apprenticeship training agreement means an agreement—

- (a) between an employee and his or her employer that relates to the employee's receiving, or provides for the employee to receive, apprenticeship training; or
- (b) between an apprenticeship co-ordinator and a person employed by the co-ordinator that relates to the person's receiving, or provides for the person to receive, apprenticeship training

approved code of practice means the code of practice (if any) for the time being—

- (a) approved by the Minister under section 20(1)(a); or
- (b) issued by the Minister under section 20(1)(b)

employed, in relation to a co-ordinator, includes employed by a body corporate in the management of which the co-ordinator is involved

employment agreement means an employment agreement as defined in section 5 of the Employment Relations Act 2000

funding agreement—

- (a) means a written agreement between the Agency and 1 or more bodies corporate, persons, or bodies of persons, providing for the bodies or persons—
 - (i) to perform, in respect of an industry or industries described in the agreement, the functions and duties stated in sections 15 to 17; and
 - (ii) to receive money from the Agency for the purpose; and
- (b) in relation to an apprenticeship co-ordinator, means the funding agreement the apprenticeship co-ordinator has entered into

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

ITO means an industry training organisation as defined in section 2 of the Industry Training Act 1992

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

national qualification means a qualification registered on the National Qualifications Framework

National Qualifications Framework means the framework for national qualifications in secondary schools and in post-school education and training developed by the Qualifications Authority under section 253(1)(c) of the Education Act 1989

Qualifications Authority means the New Zealand Qualifications Authority established by Part XX of the Education Act 1989

similar includes the same, and related

skills includes methods, and knowledge.

5 Apprenticeship training defined

For the purposes of this Act, apprenticeship training is training in the skills of an industry—

- (a) provided for a person who is working in the industry while undertaking the training; and
- (b) provided partly or wholly where the person works, and—
 - (i) if the person is not employed by an apprenticeship co-ordinator, mainly by or on behalf of the person's employer; but
 - (ii) if the person is employed by an apprenticeship co-ordinator, mainly by or on behalf of persons with whom the co-ordinator has arranged the training; and
- (c) provided under an agreement between the person and his or her employer; and
- (d) intended to lead to the person's completing, or becoming competent to complete, a national qualification in the skills of the industry.

6 Apprenticeship training agreements to have effect as employment agreements

An apprenticeship training agreement must be treated for all purposes as part of the employment agreement between the employee and employer concerned.

Compare: 1992 No 55 s 3

7 Approved code of practice to be taken into account by mediation personnel, Employment Relations Authority, and Employment Court

In exercising or performing, in relation to a matter concerning an apprentice, any power or function under the Employment Relations Act 2000, the following must take into account every applicable element of the approved code of practice:

- (a) every person providing mediation services under that Act;
- (b) the Employment Relations Authority;
- (c) the Employment Court.

8 Crown bound

This Act binds the Crown.

Part 2 **Apprenticeship training**

Agency's functions and powers

9 Agency's main function

The Agency's main function under this Act is to promote apprenticeship training by entering into funding agreements.

10 Requirements relating to funding agreements

- (1) In determining whether to enter into a funding agreement, the Agency must—
- (a) have regard to the desirability of avoiding unnecessary duplication of effort (in light of the existence of other funding agreements, or funding agreements under the Industry Training Act 1992); and
 - (b) consult the Qualifications Authority.
- (2) A funding agreement must—
- (a) specify agreed levels of performance for the apprenticeship co-ordinator or co-ordinators (or prospective apprenticeship co-ordinator or co-ordinators) concerned; and
 - (b) provide for the variation, suspension, and termination, of funding or of the funding agreement or of both, if the specified levels of performance are not achieved.

11 ITOs may be apprenticeship co-ordinators

- (1) Nothing in this Act prevents an ITO from entering into a funding agreement with the Agency.
- (2) An ITO may agree with the Agency to perform the functions and duties stated in sections 15 to 17 in an industry or industries other than the industry or industries in respect of which the ITO is recognised under the Industry Training Act 1992.

12 Additional functions of Agency

The Agency also has the following functions under this Act:

- (a) to develop and recommend to the Minister a code of practice, in accordance with section 23;

- (b) to make the approved code of practice available, in accordance with section 27;
- (c) to monitor apprenticeship co-ordinators' performance to ensure they comply with—
 - (i) the funding agreement; and
 - (ii) the approved code of practice;
- (d) to try to find a new employer with whom an apprentice can complete his or her apprenticeship training, if it becomes aware that—
 - (i) it is impracticable for the apprentice to complete his or her apprenticeship training with an employer; and
 - (ii) the apprenticeship co-ordinator who arranged the apprentice's apprenticeship training cannot, for any reason, find a new employer for the apprentice to complete his or her apprenticeship training with;
- (e) to administer and disburse public money appropriated by Parliament for the purpose of apprenticeship training.

13 Agency may require co-ordinator to give information

- (1) To determine the extent to which the agreed levels of performance specified in a funding agreement are being or have been met, the Agency may, by written notice to the apprenticeship co-ordinator, require an apprenticeship co-ordinator to give the Agency in writing any specified financial report, or statistical or other information, relating to the apprenticeship co-ordinator's activities under the agreement.
- (2) The apprenticeship co-ordinator must take all reasonable steps to comply with the notice.
- (3) This section does not affect any power the Agency has under a funding agreement to require the apprenticeship co-ordinator to give the Agency any report or information.

Compare: 1992 No 55 s 12

14 Agency's other functions, powers, or duties not affected

Sections 9 to 13 do not affect any functions, powers, or duties of the Agency under any other enactment.

Apprenticeship co-ordinators' functions, duties, and liabilities

15 Co-ordinators' functions

- (1) An apprenticeship co-ordinator has the following functions:
- (a) to promote apprenticeship training generally;
 - (b) to identify potential apprentices, and persons who could offer apprenticeship training to current employees, new employees, or apprentices employed by the co-ordinator;
 - (c) to arrange for potential apprentices training or employment intended to lead to apprenticeship training for them;
 - (d) to help people enter into apprenticeship training agreements;
 - (e) if the co-ordinator employs or is to employ apprentices, to arrange with persons for apprenticeship training to be provided to the apprentices by or on behalf of those persons, on terms and conditions mutually acceptable to the co-ordinator and those persons.
- (2) A co-ordinator helping a person (A) younger than 18 years old enter into an apprenticeship training agreement must, before A enters into the agreement,—
- (a) advise A that, if A is unsure about the effect or implications of the agreement, he or she should not enter into it without first seeking advice about doing so from an independent person (for example, a parent, guardian, caregiver, or lawyer); and
 - (b) give A a reasonable opportunity to seek that advice.

16 Additional functions of co-ordinators

- (1) An apprenticeship co-ordinator also has the following functions:
- (a) to produce and facilitate the implementation of individual training plans under and consistent with an apprentice's apprenticeship training agreement;
 - (b) to take all reasonably practicable steps to ensure that there are in place, and operate effectively, systems to monitor apprenticeship training so as to ensure that it leads to apprentices' attaining within a time that is reasonable in all the circumstances the levels of skills necessary to have completed or become competent to

- complete a national qualification in the skills of the industry or industries concerned:
- (c) to ensure, so far as is reasonably practicable, that apprenticeship training, and every apprenticeship training agreement, is consistent with the approved code of practice;
 - (d) to support apprentices not employed by the co-ordinator—
 - (i) by giving them advice; and
 - (ii) by helping them to resolve problems in their apprenticeship training as those problems arise (including, if necessary, trying to arrange for an apprentice to complete his or her apprenticeship training with some other employer).
- (2) In performing functions under subsection (1)(a), the co-ordinator must consult the apprentice and,—
- (a) if the co-ordinator does not employ the apprentice, the apprentice's employer; or
 - (b) if the co-ordinator does employ the apprentice, any persons with whom the co-ordinator has arranged or may arrange apprenticeship training for the apprentice.

17 Matters co-ordinators to have regard to

In performing any of their functions or duties under this Act, apprenticeship co-ordinators must—

- (a) have regard to every part of the approved code of practice that affects the nature or performance of that function or duty;
- (b) have regard to current training and education activities in the industry or industries in which they are performing those functions or duties;
- (c) have particular regard to the needs of Maori, the Pacific Islands peoples of New Zealand, people with disabilities, and women.

18 Co-ordinators' liabilities

- (1) Apprenticeship co-ordinators have no civil liability for any act or thing they do or omit to do, in good faith, in performing or purporting to perform any of their functions or duties under this Act.

- (2) Subsection (1) does not prevent the Agency from varying, suspending, or terminating funding for an apprenticeship co-ordinator or the funding agreement or both.
- (3) Subsection (1) does not affect any liability of a co-ordinator that arises by virtue of the fact that the co-ordinator is or has been an employer of an apprentice.

Application of Health and Safety in Employment Act 1992

19 Application of Health and Safety in Employment Act 1992

- (1) This section applies to an apprentice receiving apprenticeship training from some other person under an arrangement between the apprentice's employer and the other person.
- (2) The Health and Safety in Employment Act 1992 applies to an apprentice to whom this section applies as if he or she were the other person's employee.
- (3) Subsection (2) does not affect the application of the Health and Safety in Employment Act 1992 to people other than the other person.

**Part 3
Code of practice**

Approval of code of practice

20 Minister may approve code

- (1) The Minister may, by notice in the *Gazette*,—
 - (a) approve a code of practice recommended by the Agency under section 23; or
 - (b) in the circumstances stated in section 25, issue a code of practice other than a code of practice recommended by the Agency.
- (2) Before approving a code of practice under subsection (1)(b), the Minister may consult any people or organisations that the Minister thinks appropriate.
- (3) The notice may, instead of setting out the code of practice being approved or issued,—
 - (a) give enough information to identify it; and
 - (b) state when it comes into force and where copies of it may be obtained.

21 Purpose of code

The purpose of a code of practice is to offer guidance, consistent with this Act, about the responsibilities relating to apprenticeship training of apprenticeship co-ordinators, employers, and apprentices.

22 Content of code

- (1) A code of practice may include material relating to—
- (a) identifying potential apprentices, and persons who could offer apprenticeship training to current employees, new employees, or apprentices employed by an apprenticeship co-ordinator;
 - (b) apprenticeship co-ordinators' duties, or minimum standards of conduct apprenticeship co-ordinators must observe, in relation to apprenticeship training;
 - (c) duties, or minimum standards of conduct, relating to apprenticeship training that, for any reason, employers or apprentices should or should not agree to perform or observe;
 - (d) arrangements for apprenticeship training that apprenticeship co-ordinators, employers, or apprentices should for any reason prefer or avoid;
 - (e) practices in apprenticeship training that apprenticeship co-ordinators, employers, or apprentices should for any reason prefer or avoid;
 - (f) the independent mediation of disputes relating to apprenticeship training arising between apprenticeship co-ordinators and employers, or apprenticeship co-ordinators and apprentices not employed by those co-ordinators.
- (2) A code of practice may include different provisions in respect of, or provisions that apply to 1 only of,—
- (a) apprenticeship training where the apprentice is not employed by an apprenticeship co-ordinator;
 - (b) apprenticeship training where the apprentice is employed by an apprenticeship co-ordinator.
- (3) Subsections (1) and (2) do not limit section 21.

23 Development and recommendation of code

- (1) The Agency must develop and recommend to the Minister a code of practice—
- (a) as requested by the Minister; and

- (b) within any time (including any extension of time) specified by the Minister.
- (2) In developing the code, the Agency—
- (a) may consult any people and organisations it considers appropriate; and
 - (b) must consult any people and organisations the Minister directs.
- 24 Minister may decline to approve code recommended**
The Minister may, instead of approving a code of practice recommended by the Agency,—
- (a) decline to approve the code; or
 - (b) decline to approve the code, but refer it back to the Agency for reconsideration.
- 25 Minister may issue other code**
The Minister may issue a code of practice under section 20(1)(b) if—
- (a) the Agency has not recommended a code of practice within a time specified by the Minister under section 23(1)(b); or
 - (b) the Minister declines to approve a code of practice recommended by the Agency.

Provisions relating to approved code of practice

- 26 When approved code comes into force**
The approved code of practice comes into force—
- (a) on the 28th day after the date on which it is issued or approved in the *Gazette*; or
 - (b) on any later date specified in it.
- 27 Availability of approved code**
- (1) The Agency must ensure that, at all reasonable times, members of the public may, at every office of the Agency that deals with apprenticeship training matters, inspect and obtain copies of the approved code of practice.
- (2) The Agency may charge a reasonable fee for—
- (a) giving a person a copy of the approved code of practice; or
 - (b) allowing a person to use the Agency's equipment to copy it.

- (3) Subsection (2)(b) does not require the Agency to allow any person to use equipment under the Agency's control to copy the approved code of practice.

28 Proof of approved code

- (1) A code of practice that appears to have been approved or issued under section 20(1) must be treated for all purposes (for example, in any proceedings) as the approved code of practice, unless it is proved that the code was not so approved or issued.
- (2) Subsection (1) does not limit any method of proof of the approved code of practice.

29 Disallowance of approved code

The approved code of practice is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but not for the purposes of the Acts and Regulations Publication Act 1989.

30 Amendment, revocation, and replacement of approved code

The approved code of practice may be amended, or revoked, or revoked and replaced, in the same manner as it was approved or issued, and sections 20 to 29 apply accordingly with all necessary modifications.

Legislative history

1 August 2000	Introduction (Bill 50–1)
19 September 2000	First reading and referral to Education and Science Committee
20 November 2000	Reported from Education and Science Committee (Bill 50–2)
5 December 2000	Second reading
13 December 2000	Committee of the whole House, third reading
14 December 2000	Royal assent

This Act is administered in the Ministry of Education.
