



ANALYSIS

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1988, No. 32

An Act to amend the Universities Act 1961

[30 March 1988

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

1. Short Title and commencement—(1) This Act may be cited as the Universities Amendment Act 1988, and shall be read together with and deemed part of the Universities Act 1961 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of April 1988.

2. New sections inserted—The principal Act is hereby amended by inserting, after section 11A (as inserted by section 33(1) of the Higher Salaries Commission Act 1977), the following sections:

“11AA. **Method of prescribing conditions of employment**—(1) Except as otherwise provided in this Part of this Act, the Labour Relations Act 1987 shall apply in relation to the Universities.

“(2) The Chairman of the University Grants Committee shall negotiate under Part VII of the Labour Relations Act 1987 any award or agreement that covers only the conditions of employment of persons employed by Universities. The Chairman of the University Grants Committee shall consult

with the Vice-Chancellors' Committee and the State Services Commission before entering into negotiations.

“(3) The State Services Commission may at any time, either before or during the negotiations, indicate to the Chairman of the University Grants Committee that it wishes to participate with the Chairman of the University Grants Committee in the negotiation or continued negotiation of the conditions of employment, and the Chairman shall allow the State Services Commission to so participate in the negotiations.

“11AB. **Compulsory arbitration and agreement not to strike or lock out**—(1) This section applies to any award or agreement—

“(a) Negotiated under Part VII of the Labour Relations Act 1987; and

“(b) Applying only to persons employed by Universities.

“(2) Any award or agreement to which this section applies may include a clause under which—

“(a) Both the union party and the Chairman of the University Grants Committee agree to accept compulsory arbitration; and

“(b) The union party agrees that such of its members as are bound by the award or agreement will not take part in any strike of a kind described in paragraph (a) or paragraph (b) or paragraph (c) of section 233 (1) of the Labour Relations Act 1987; and

(c) The Chairman of the University Grants Committee agrees, on behalf of the Universities, that the Universities will not, by a lockout of a kind described in paragraph (a) or paragraph (b) or paragraph (c) of section 233 (1) of the Labour Relations Act 1987, lock out such of their employees as are bound by the award or agreement.

“(3) Where a clause is inserted in an award or agreement pursuant to this section, that clause shall also be inserted in the award or agreement that is subsequent to the award or agreement in which the clause was inserted.

“(4) The provisions of the Fourth Schedule to the State Sector Act 1988 shall apply in relation to compulsory arbitration under the clause.

“(5) Where a union that is a party to an award or agreement that covers persons employed by any University delivers to the Chairman of the University Grants Committee, not later than the close of the 30th day of June 1988, a written request to include in the award or agreement a clause of the kind described in subsection (2) of this section,—

“(a) The Chairman shall agree to the request and shall inform the Arbitration Commission forthwith of the Chairman’s agreement; and

“(b) An Arbitration Commissioner shall forthwith amend the award or agreement accordingly.

“(6) Notwithstanding any other provision of this section, every clause that is inserted in any award or agreement as a result of a request made under subsection (5) of this section in relation to that award or agreement shall, unless cancelled under section 11AC of this Act, be also inserted in—

“(a) The award or agreement that is subsequent to the award or agreement in which the clause was inserted; and

“(b) The award or agreement that is subsequent to the award or agreement specified in paragraph (a) of this subsection.

“(7) Every clause that is included in any award or agreement as a result of a request made under subsection (5) of this section, whether in relation to that award or agreement or a superseded award or agreement, shall, unless removed at the request of the union or unless cancelled under section 11AC of this Act, be included in any award or agreement made in substitution for the award or agreement in which the clause is included.

“**11AC. Contravention of agreement not to strike or lock out**—(1) Where any party to an award or agreement alleges that a strike or lockout has taken place in contravention of a clause included in the award or agreement pursuant to section 11AB of this Act, that party may apply to the Labour Court for a declaration that such a contravention has taken place.

“(2) If the Labour Court is satisfied that such a contravention has taken place, it may declare the strike or lockout to be, by reason of that contravention, an unlawful strike or an unlawful lockout.

“(3) Where the declaration relates to a strike, the Chairman of the University Grants Committee may request the Arbitration Commission to cancel the clause included in the award or agreement pursuant to section 11AB of this Act, and an Arbitration Commissioner shall cancel the clause accordingly.

“(4) Where the declaration relates to a lockout, the union party which negotiated the award or agreement may request the Arbitration Commission to cancel the clause included in the award or agreement pursuant to section 11AB of this Act, and

an Arbitration Commissioner shall cancel the clause accordingly.

“(5) Any request made under subsection (3) or subsection (4) of this section shall—

“(a) Include particulars of the relevant declaration of the Labour Court; and

“(b) Be filed in the office of the Arbitration Commission.

“(6) On the cancellation of the clause, any arbitration or other proceedings that are then in progress under that clause shall cease and shall not be renewed.

“(7) Nothing in section 242 (3) or section 243 (3) of the Labour Relations Act 1987 applies in relation to a strike or lockout that takes place in contravention of a clause included in an award or agreement pursuant to section 11AB of this Act.

“11AD. **General principles**—(1) The Council of each University shall operate a personnel policy that complies with the principle of being a good employer.

“(2) For the purposes of this section a ‘good employer’ is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

“(a) Good and safe working conditions; and

“(b) An equal employment opportunities programme; and

“(c) The impartial selection of suitably qualified persons for appointment; and

“(d) Recognition of—

“(i) The aims and aspirations of the Maori people; and

“(ii) The employment requirements of the Maori people; and

“(iii) The need for greater involvement of the Maori people as employees of the Universities; and

“(e) Opportunities for the enhancement of the abilities of individual employees; and

“(f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and

“(g) Recognition of the employment requirements of women; and

“(h) Recognition of the employment requirements of persons with disabilities.

“(3) In addition to the requirements specified in subsections (1) and (2) of this section, the Council of each University shall ensure that all employees maintain proper standards of integrity, conduct, and concern for the public interest.

“11AE. **Equal employment opportunities**—(1) The Council of each University—

“(a) Shall in each year develop and publish an equal employment opportunities programme for the University:

“(b) Shall ensure in each year that the equal opportunities programme for that year is complied with.

“(2) The Council of each University shall include in the annual report of the University—

“(a) A summary of the equal employment opportunities programme for the year to which the report relates; and

“(b) An account of the extent to which the University was able to meet, during the year to which the report relates, the equal employment opportunities programme for that year.

“(3) For the purposes of this section and section 11AD of this Act, an equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons.

“11AF. **Higher salaries**—Nothing in sections 11AA and 11AB of this Act shall apply in relation to—

“(a) The Vice-Chancellor of any University or the Principal of Lincoln College; or

“(b) Any teacher.”

3. Renumbering of section—The section 11AA inserted into the principal Act by section 2(1) of the Universities Amendment Act 1980 is hereby renumbered as section 11AG.

4. Transitional provisions—Sections 94 to 104 of the State Sector Act 1988 shall apply for the purposes of the principal Act with all necessary modifications.