

[AS REPORTED FROM THE LABOUR AND EDUCATION COMMITTEE]

House of Representatives, 2 April 1985.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 7 June 1985.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

[This Bill was formerly clauses 35 to 39A of the Union Membership Bill]

Hon. Stan Rodger

POST OFFICE AMENDMENT (NO. 2)

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A BILL INTITULED

An Act to amend the Post Office Act 1959

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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1. Short Title and commencement—(1) This Act may be cited as the Post Office Amendment Act (No. 2) 1985, and shall be read together with and deemed part of the Post Office Act 1959* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1985. 10

*Reprinted 1970, Vol. 3, p. 2155

Amendments: 1971, No. 120; 1972, No. 123; 1973, No. 2; 1973, No. 86; 1974, No. 64; 1975, No. 24; 1975, No. 98; 1977, No. 72; 1978, No. 24; 1980, No. 41; 1981, No. 26; 1982, No. 45; 1982, No. 95; 1982, No. 161; 1983, No. 111

2. Interpretation—(1) Section 210 of the principal Act is hereby amended by inserting, after the definition of the term “Apprenticeship Committee”, the following definition:

“ ‘Authorised representative’, in relation to the Post Office Union (Incorporated) means a person authorised in accordance with the rules of the union, or by its committee of management, to act on its behalf.” 15

(2) Section 210 of the principal Act is hereby further amended by repealing the definition of the term “society of workers” or “association of workers” or “organisation of workers” (as inserted by section 2 of the Post Office Amendment Act 1983). 20

(3) Section 210 of the principal Act is hereby further amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Union membership clause’, in relation to any determination, means a clause which is included or is deemed to be included in the determination and which provides as follows: 25

“ (1) Every person employed in the service of the Post Office shall become a member of the Post Office Union (Incorporated) within 14 days after that person’s engagement or appointment or, as the case may require, after this clause comes into force, and shall remain a member of the Post Office Union (Incorporated), so long as that person continues to be employed in the service of the Post Office. 30 35

“(2) Nothing in **subclause (1)** of this clause applies in respect of—

“(a) Any officer appointed by the Governor-General; or

5 “(b) Any apprentice; or

“(c) Any person who holds a certificate of exemption from union membership issued under **section 112o** of the Industrial Relations Act 1973:

10 “‘Union Membership Exemption Tribunal’ means the Union Membership Exemption Tribunal established by **section 105** of the Industrial Relations Act 1973.’”.

3. New sections substituted—The principal Act is hereby amended by repealing sections 221 to 221k (as substituted by
15 section 3 of the Post Office Amendment Act 1983), and substituting the following sections:

“221. **Preference to be obtained only by virtue of a union membership clause**—(1) A union membership clause may be inserted in a determination only in accordance with the
20 provisions of this Act.

“(2) Where a union membership clause is inserted in a determination in accordance with the provisions of this Act, that clause shall have effect according to its tenor.

“(3) Except for the preference conferred by a union
25 membership clause that is inserted in a determination in accordance with the provisions of this Act, no person who is a member of the Post Office Union (Incorporated) or any union, society, association, or other organisation of workers shall be entitled to preference in obtaining or retaining employment
30 by virtue of that person’s membership of the Post Office Union (Incorporated) or of that union, society, association, or other organisation of workers.

“(4) No determination made under section 219 of this Act or under the State Services Conditions of Employment Act
35 1977 shall contain a provision (other than a union membership clause inserted in accordance with the provisions of this Act) requiring any officer to join the Post Office Union (Incorporated) or any union, society, association, or other organisation of workers.

“221A. **Obligatory rules concerning union membership clause**—(1) The rules of the Post Office Union (Incorporated) shall be deemed to include, the following rules (which shall not be amended by the union and which shall prevail over any other provision of the rules):

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“ **Ballots relating to union membership**—(1) Where the union intends, in relation to the insertion of a union membership clause in each of the determinations by which persons employed in the service of the Post Office are bound from time to time, to conduct, for the purposes of the Post Office Act 1959, a ballot of the persons employed in the service of the Post Office, the committee of management of the union shall ensure that—

“ (a) Written notice of the intention to seek the insertion of a union membership clause in each of the determinations by which persons employed in the service of the Post Office are bound from time to time is given or posted to each of those persons; and

“ (b) The intention is discussed at a special meeting, or at a series of special meetings, called for the purpose and attended by persons employed in the service of the Post Office who will if a union membership clause is inserted in each of the determinations by which persons in the service of the Post Office are bound from time to time, be bound to become members of the Post Office Union (Incorporated); and

“ (c) A secret ballot (*or secret ballots*) of the persons described in **paragraph (b)** of this subclause who are present at the special meeting or special meetings (being a ballot (*or ballots*) conducted under the supervision of the Registrar of Industrial Unions or by some person, being an officer of the Department of Labour, designated by the Registrar of Industrial Unions in that behalf) are held for the purpose of determining whether a majority of the persons so described who are present at the special meeting or special meetings is in favour of the insertion of a union membership clause in each of the determinations by which persons employed in the service of the Post Office are bound from time to time.

40

“ (2) For the purposes of this rule the term “special meeting” includes any meeting of the persons described in **subclause (1) (b)** of this rule who reside or work in any particular locality, being a meeting called expressly for the purpose of considering
 5 whether a union membership clause should be included in each of the determinations by which persons employed in the service of the Post Office are bound from time to time.

“ (3) For the purposes of **subclause (1) (c)** of this rule, the view of the majority of the persons described in **subclause (1) (b)** of
 10 this rule who are present at the special meeting or special meetings shall be represented by the majority of the valid votes cast in the secret ballot (*or secret ballots*) held at that meeting or those meetings and every special vote cast under these rules shall be as valid as it would have been if the voter had been
 15 present at the special meeting in respect of which the voter’s application for a special vote was made.

“ **Restrictions on frequency of ballots**—The union shall not conduct a ballot (*or a series of ballots*) pursuant to these rules if, during the 2 years preceding the date on which the ballot
 20 (*or the first of the series*) is to be conducted, a certificate showing the result of an earlier ballot conducted by that union pursuant to these rules has been issued by the Registrar of Industrial Unions.

“ **Returning Officers and other officials**—(1) The union
 25 shall from time to time appoint as many Returning Officers and other officials as are required for the purposes of any ballot relating to union membership clauses which is required under these rules.

“ (2) Those Returning Officers and other officials shall
 30 comply with any directions given to them by the Registrar of Industrial Unions or the person, being an officer of the Department of Labour, designated by the Registrar of Industrial Unions to supervise the ballot (*or ballots*).

“ **Special voting**—(1) Any person who is eligible to cast a
 35 vote in a secret ballot held under these rules may apply to the Returning Officer for a special vote.

“ (2) The application shall be made at least **(7) 10** clear days before the day of the special meeting at which the ballot is to be held.

“(3) Where there is to be more than one special meeting and the application relates to a special meeting to be held during the applicant’s normal working hours, the application shall not be valid if any other special meeting is to be held during the applicant’s normal working hours at a place that is nearer, by the most practicable route, to the applicant’s usual place of work. 5

“(4) Where there is to be more than one special meeting and the application relates to a special meeting held outside the applicant’s normal working hours, the application shall not be valid if any other special meeting is to be held outside the applicant’s normal working hours at a place that is nearer, by the most practicable route, to the applicant’s place of residence. 10

“**Form of application for special vote**—Every application for a special vote shall be in the prescribed form, which form shall set out the grounds on which the applicant requests a special vote. 15

“**Issue of ballot papers for special votes**—(1) The Returning Officer shall, upon the application made by a person who is eligible to vote in a secret ballot, issue a ballot paper to that person if the application is made in accordance with these rules and that person— 20

“(a) Is wholly or partially blind; or

“(b) Is unable to read or write (whether because of physical handicap or otherwise); or 25

“(c) Has severe difficulty in reading or writing; or

“(d) Is ill or infirm, and by reason of that illness or infirmity will be precluded from attending to vote at the special meeting; or

“(e) In the case of a woman, she will by reason of pregnancy or recent childbirth be precluded from attending to vote at the special meeting; or 30

“(f) Has a religious objection to voting on the day of the week on which the special meeting is to be held; or

“(g) Satisfies the Returning Officer that on any other ground it will not be possible for that person to vote at the special meeting without incurring hardship or undue inconvenience; or 35

“(h) In the case of a special meeting held during that person’s normal working hours, the employer of that person requires that person to work during those hours. 40

“(2) Every ballot paper issued under this rule shall be issued at least ~~(3)~~ 5 clear days before the day of the special meeting.

New

“(3) Where the Returning Officer issues a ballot paper under
5 this rule, the Returning Officer shall, at the same time, give to the person to whom the ballot paper is issued a notice in writing stating both the time within which and the place at which the ballot paper must be returned.

“(4) The notice required by **subclause (3)** of this rule shall
10 not be included on the ballot paper.

“**Blind, disabled, or illiterate voters**—(1) Any person who is eligible to vote in a secret ballot held under these rules but who is wholly or partially blind, or (whether because of physical handicap or otherwise) is unable to read or write or has severe
15 difficulty in reading or writing, may vote in accordance with the provisions of this rule.

“(2) Where any such voter has received a ballot paper it may be marked by the voter with the assistance of a person nominated by the voter, or, if no person is so nominated, the
20 Returning Officer, or may be marked by the person nominated or, as the case may be, the Returning Officer in accordance with the instructions of the voter.

Struck Out

“**Delivery of special votes**—Every special vote shall be
25 delivered to the Returning Officer not later than noon on the day of the special meeting.

“**Disallowance of special votes received late**—If any special vote or any envelope appearing to contain a special vote is received by the Returning Officer later than noon on
30 the day of the special meeting, the Returning Officer shall disallow the vote.

New

“ **Delivery of special votes**—(1) Every special vote shall be delivered to a place specified by the Returning Officer.

“(2) Delivery shall take place not later than noon on the day of the special meeting or, where there is a series of special meetings, not later than noon on the day of the last special meeting. 5

“ **Disallowance of special votes received late**—If any special vote or any envelope appearing to contain a special vote is received by the Returning Officer later than noon on the day of the special meeting or, where there is a series of special meetings, not later than noon on the date of the last special meeting, the Returning Officer shall disallow the vote.’ 10

“(2) The rules included, or deemed to be included, by **subsection (1)** of this section in the rules of the Post Office Union (Incorporated) shall be included in or supplied with every copy of those rules delivered or supplied to any person employed in the service of the Post Office. 15

“**221B. Implementation of ballot where determinations contain a union membership clause**—(1) Where— 20

“(a) The Registrar of Industrial Unions certifies that not less than 50 percent of the valid votes recorded in any ballot conducted pursuant to the rules included, or deemed to be included, by **section 221A** of this Act in the rules of the Post Office Union (Incorporated) are in favour of the insertion of a union membership clause in each of the determinations by which persons employed in the service of the Post Office are bound from time to time; and 25

“(b) At the time of the issue of the certificate a union membership clause is inserted or deemed to be inserted in each of the determinations by which persons employed in the service of the Post Office are then bound,— 30

such a clause shall, throughout the period of 3 years beginning with the date of the certificate, continue to be inserted or to be deemed to be inserted in each of those determinations. 35

“(2) Where—

“(a) The Registrar of Industrial Unions certifies that more than 50 percent of the valid votes recorded in any ballot conducted pursuant to the rules included, or 40

5 deemed to be included, by **section 221A** of this Act
in the rules of the Post Office Union (Incorporated)
are not in favour of the insertion of a union
membership clause in each of the determinations
by which persons employed in the service of the
Post Office are bound from time to time; and

“(b) At the date of the certificate a union membership clause
is inserted in each of the determinations by which
the members of the union are then bound,—
10 the clause shall not, at any time in the period of 3 years
beginning with the date of the certificate, be inserted in the
determinations by which the persons employed in the service
of the Post Office are bound and the clause inserted or deemed
to be inserted, at the date of the certificate, in each of the
15 determinations by which persons employed in the service of
the Post Office are bound shall cease to have effect on the day
following the date of the certificate and the Director-General
shall amend the determinations by deleting that clause from
them.

20 “221c. **Implementation of ballot where determinations
do not contain a union membership clause**—(1) Where—

“(a) The Registrar of Industrial Unions certifies that not less
than 50 percent of the valid votes recorded in any
ballot conducted pursuant to the rules included, or
25 deemed to be included, by **section 221A** of this Act
in the rules of the Post Office Union (Incorporated)
are in favour of the insertion of a union membership
clause in each of the determinations by which
persons employed in the service of the Post Office
are bound from time to time; and

30 “(b) At the time of the issue of that certificate a union
membership clause is not inserted or deemed to be
inserted in each of the determinations by which
persons employed in the service of the Post Office
are then bound—
35

such a clause shall, as from the beginning of the 14th day after
the date of that certificate and throughout the balance of the
period of 3 years beginning with the date of the certificate, be
inserted by the Director-General in each of the determinations
40 by which persons employed in the service of the Post Office
are bound from time to time.

“(2) Where—

“(a) The Registrar of Industrial Unions certifies that more than 50 percent of the valid votes recorded in any ballot conducted pursuant to the rules included or deemed to be included, by **section 221A** of this Act, in the rules of the Post Office Union (Incorporated) are not in favour of the insertion of a union membership clause in each of the determinations by which persons employed in the service of the Post Office are bound from time to time; and

“(b) At the date of the certificate a union membership clause is not inserted or deemed to be inserted in each of the determinations by which persons employed in the service of the Post Office are then bound,—

a union membership clause shall not, at any time in the period of 3 years beginning with the date of the certificate, be inserted in the determinations by which persons employed in the service of the Post Office are bound.

“221D. **Power to make consequential amendments to determination**—(1) Where as the result of any ballot conducted pursuant to the rules included, or deemed to be included, by **section 221A** of this Act, in the rules of the Post Office Union (Incorporated) a union membership clause is required to be inserted in any determination, the Director-General shall, where necessary, amend the determination by inserting in it a union membership clause.

“(2) Where the Director-General is satisfied that there is no authority for the continued insertion of a union membership clause in any determination, the Director-General (*may*) shall amend that determination by deleting that clause from it.

221E. **Explanatory note in relation to expiry of union membership clause**—Where a union membership clause is inserted, or deemed to be inserted, in a determination, the Director-General shall ensure that the determination contains an explanatory note stating the date on which the clause will expire unless in a ballot, which is conducted after the insertion or deemed insertion of that clause and which is so conducted pursuant to the rules included, or deemed to be included, by **section 221A** of this Act in the rules of the Post Office Union (Incorporated), not less than 50 percent of the valid votes recorded are in favour of the union membership clause.

“221F. **Notice to Registrar**—(1) Where the Post Office Union (Incorporated) intends to conduct a ballot pursuant to the rules included or deemed to be included by **section 221A** of this Act in its rules, the committee of management of the union shall,
 5 at least 30 days before the day on which the special meeting or the first of the series of special meetings required is held, give or post to the Registrar of Industrial Unions written notice of that intention in **form 3** in **Schedule 1B** to the Industrial Relations Act 1973, which notice shall state, among other
 10 things, the date, time, and place of each special meeting.

New

“(2) For the purposes of this section, **form 3** in **Schedule 1B** to the Industrial Relations Act 1973 shall, subject to **subsection (3)** of this section, apply with all necessary modifications.

15 “(3) Notwithstanding anything in **subsection (1)** or **subsection (2)** of this section, regulations made under section 223 of this Act may prescribe a form (based on **form 3** in **Schedule 1B** to the Industrial Relations Act 1973) that shall apply for the purposes of **subsection (1)** of this section in the place of that form.

20 “221G. **Conduct of ballot**—(1) Every ballot conducted pursuant to the rules included or deemed to be included by **section 221A** of this Act in the rules of the Post Office Union (Incorporated) shall be conducted by the union under the supervision of the Registrar of Industrial Unions, or of some
 25 person, being an officer of the Department of Labour, designated by the Registrar to supervise that ballot.

“(2) The ballot paper shall be in **form 4** in **Schedule 1B** to the Industrial Relations Act 1973.

New

30 “(2A) The Returning Officer shall, at the conclusion of the special meeting or, where there is a series of special meetings, at the conclusion of that series, prepare, and make available to the Registrar and to any voter or other interested person, a record showing—

35 “(a) The number of votes in favour of the union membership clause:

“(b) The number of votes against the union membership clause:

“(c) The number of informal votes.

“(3) The Registrar of Industrial Unions shall issue a certificate showing the result of the ballot, which certificate shall be in **(form 4) form 5 in Schedule 1B** to the Industrial Relations Act 1973, and shall supply one copy of that certificate to the Director-General and another to the union. Every such certificate shall be conclusive evidence of the result of the ballot. 5

“(4) The expenses incurred by the Registrar or designated person in connection with the conduct of every such ballot shall be paid out of money to be appropriated by Parliament for the purpose. 10

“(5) Notwithstanding anything in the rules of the union, the Registrar or designated person may take such action and give such directions as the Registrar or designated person considers necessary to prevent the occurrence of any irregularity in or in connection with the ballot. 15

“(6) In this section the term ‘designated person’ means any person designated under **subsection (1)** of this section to supervise the ballot on behalf of the Registrar.

New

“(7) For the purposes of this section, **forms 4 and 5 in Schedule 1B** to the Industrial Relations Act 1973 shall, subject to **subsection (8)** of this section, apply with all necessary modifications. 20

“(8) Notwithstanding anything in **subsections (2), (3), and (7)** of this section, regulations made under section 223 of this Act may prescribe forms (based on **forms 4 and 5 in Schedule 1B** to the Industrial Relations Act 1973) that shall apply for the purposes of **subsections (2) and (3)** of this section respectively in the place of those forms. 25

“221H. **Restriction on issue of certificates**—(1) The Registrar shall not issue a certificate showing the result of a ballot conducted under the rules included, or deemed to be included, by **section 221A** of this Act in the rules of the Post Office Union (Incorporated) if, during the 3 years preceding the date on which it was conducted, a certificate showing the result of an earlier ballot of the persons employed in the service of the Post Office, being a ballot conducted pursuant to those rules, was issued by the Registrar. 30 35

“(2) Where—

“(a) The Post Office Union (Incorporated) conducts a ballot pursuant to the rules included or deemed to be included in its rules by **section 221A** of this Act; and 40

“(b) A period of more than 2 years but less than 3 years has elapsed since the date on which a certificate was last issued by the Registrar of Industrial Unions in respect of a ballot conducted by that union pursuant to the rules so included or deemed to be included,—
 5 the Registrar shall postpone the issue of the certificate in respect of the latest ballot until after the expiration of the period of 3 years specified in **subsection (1)** of this section.

“**221I. Offences in relation to ballots**—(1) Every person
 10 commits an offence who, without lawful authority or excuse, in or in connection with a ballot conducted pursuant to the rules included or deemed to be included by **section 221A** of this Act in the rules of the Post Office Union (Incorporated),—

“(a) Personates another person to secure a ballot paper to
 15 which the personator is not entitled, or personates another person for the purpose of voting:

“(b) Destroys, defaces, alters, takes, or otherwise interferes with a ballot paper or envelope:

“(c) Puts a ballot paper or other paper into a ballot box or
 20 other ballot receptacle, or into the post:

“(d) Records a vote which that person is not entitled to record.

“(2) Every person commits an offence who—

“(a) Gives any money or other valuable consideration to any
 25 person entitled to vote in the ballot in order to induce any such person to vote or refrain from voting; or

“(b) Refuses or fails to comply with a direction of the Registrar or the designated person under
 30 **section 221G** of this Act; or

“(c) Obstructs or hinders the Registrar or the designated person in the taking of any action under **section 221G** of this Act or any person in the carrying out of a direction given by the Registrar or the designated person under that section; or
 35

“(d) Intimidates or attempts to intimidate any ~~((worker))~~
person with intent to influence the ~~((worker's))~~
person's voting in the ballot.

“(3) Every person who commits an offence against this section
 40 shall be liable on summary conviction to a fine not exceeding \$500.

“221J. **Applications for inquiries**—(1) Where, in the case of a ballot conducted under the rules included or deemed to be included by **section 221A** of this Act in the rules of the Post Office Union (Incorporated), not less than 50 persons eligible to vote in the ballot claim— 5

“(a) That the rules so included or deemed to have been so included have not been complied with by the union; or

“(b) That notwithstanding the rules included or deemed to be so included, the special meeting or special meetings of the union did not constitute an adequate opportunity for the persons employed in the service of the Post Office to attend the meeting or meetings and to vote; or 10

“(c) That there has been an irregularity in or in connection with the conduct of the ballot,— 15
they may apply to the Registrar of Industrial Unions for an inquiry into the matter.

“(2) An application under this section shall—

“(a) Be in writing in the prescribed form: 20

“(b) Be lodged with the Registrar of Industrial Unions:

“(c) Specify—

“(i) The ground or grounds relied on under **subsection (1)** of this section:

“(ii) The non-compliance (if any) in respect of which the application is made or the irregularity (if any) which is claimed to have occurred: 25

“(d) State the facts relied on in support of the application:

“(e) Be accompanied by a statutory declaration by one of the applicants declaring that the facts stated in the application are, to the best of the applicant’s knowledge and belief, true: 30

“(f) Be made during the period of 30 days beginning with the date on which the Registrar of Industrial Unions certifies the result of the ballot. 35

“221K. **Action by Registrar**—Every application under **section 221J** of this Act shall be dealt with by the (*Arbitration Court*) Registrar of Industrial Unions as if it were an application under **section 102D** of the Industrial Relations Act 1973, and the provisions of **sections 102E to 102G** of that Act shall, with all necessary modifications, apply accordingly. 40

“221L. Ballot papers, etc., to be preserved—

(1) Notwithstanding anything in the rules of the Post Office Union (Incorporated), that union and every officer of that union or of a branch of that union who is able to do so shall take
5 all reasonable steps to ensure that all ballot papers, envelopes, lists, and other documents used in connection with, or relevant to, a ballot conducted under the rules included, or deemed to be included, by **section 221A** of this Act in the rules of the union are preserved and kept at the registered office of the union
10 for a period of one year after the completion of the ballot.

“(2) Every union or officer that fails to comply with **subsection (1)** of this section commits an offence against this Act.

“221M. Enforcement of union membership clauses—

(1) Where pursuant to this Act a union membership clause is
15 inserted in a determination, the following provisions shall apply:

“(a) Every person employed in the service of the Post Office to whom the union membership clause applies shall
20 be liable to a penalty not exceeding ~~(\$500)~~ \$50 if that person fails to become a member of the Post Office Union (Incorporated) in accordance with that clause, after having been requested to do so by any officer or authorised representative of the Post Office Union (Incorporated), or if, having become a
25 member of the Post Office Union (Incorporated), that person fails to remain a member in accordance with that clause:

Struck Out

“(b) The Director-General shall be liable to penalty not
30 exceeding \$1,500 if the Director-General continues to employ any person, being a person to whom that clause applies, after having been notified by any officer or authorised representative of the Post Office Union (Incorporated) that the person has been so
35 requested to become a member of the Post Office Union (Incorporated) and has failed to become a member in accordance with that clause, or that the person, after having become a member of the Post Office Union (Incorporated), has failed to remain a
40 member in accordance with that clause.

New

“(b) The Director-General shall be liable to a penalty not exceeding \$500 if the Director-General, after having been notified by any officer or authorised representative of the Post Office Union (Incorporated)— 5

“(i) That a person to whom that clause applies has been so requested to become a member of the Post Office Union (Incorporated) and has failed to become a member in accordance with that clause; or 10

“(ii) That a person to whom that clause applies has, after having become a member of the Post Office Union (Incorporated), failed to remain a member in accordance with that clause,— 15
fails to institute procedures for the termination of that person’s employment or fails, after having initiated procedures for the termination of that person’s employment, to prosecute them diligently. 15

“(2) The Public Sector Tribunal shall have full and exclusive jurisdiction to deal with all actions for the recovery of penalties under this section. 20

“(3) For the purposes of this section, every reference to the Public Sector Tribunal shall be read as a reference to the Chairman of that Tribunal acting alone.

“(4) A penalty recoverable under this section shall be recovered in the same manner, with all necessary modifications, as a penalty for a breach of an award under the Industrial Relations Act 1973; and sections 151 to 157 of that Act (except subsections (1), (5), and (6) of section 151) shall apply accordingly with all necessary modifications. 25 30

“(5) An action for the recovery of a penalty under this section may be brought only by the Post Office Union (Incorporated).

“(6) The Public Sector Tribunal may delegate to any District Court Judge named by it its powers and functions to deal with an action under this section and the provisions of section 49 of the Industrial Relations Act 1973 (except those of subsection (6)) shall, with all necessary modifications, apply accordingly. 35

“**221N. Application for exemption from union membership**—(1) Any person who is required by a union membership clause to become or to remain a member of the Post Office Union (Incorporated) may apply to the Secretary
5 of the Union Membership Exemption Tribunal for a certificate of exemption from union membership.

(2) The Union Membership Exemption Tribunal shall have, in addition to its other functions, the function of considering and determining every application made under **subsection (1)**
10 of this section and the provisions of **sections 111, 112c to 112i, and 112k to 112o** of the Industrial Relations Act 1973 shall apply accordingly with all necessary modifications.

“**221O. Intervention by other service organisations or unions or central organisation of workers**—(1) Where any
15 other service organisations or unions or the central organisation of workers considers that it has an interest in the hearing of an application under **section 221N (1)** of this Act, it may apply to the Secretary of the Union Membership Exemption Tribunal for the service organisation’s or union’s or organisation’s
20 secretary or any other person appointed in that behalf to also be present and be heard at the hearing.

“(2) The Secretary of the Union Membership Exemption Tribunal shall refer every application under this section to the Union Membership Exemption Tribunal, which shall
25 determine, before the hearing, whether or not the service organisation or union or the central organisation of workers has such an interest in the hearing as would justify the service organisation’s or union’s or central organisation’s secretary or other person so appointed being entitled to be present and to
30 be heard.”

“**221P. Discrimination**—(1) It shall be unlawful for the Director-General—

“(a) Other than by the lawful insertion in any determination
35 of a union membership clause within the meaning of **section 210** of this Act, to make membership of the Post Office Union (Incorporated) a condition to be fulfilled by any person who wishes to obtain or retain any position or employment; or

“(b) To
40 make non-membership of the Post Office Union (Incorporated) a condition to be fulfilled by any person who wishes to obtain or retain any position or employment; or

“(c) To exert undue influence on any person employed in the service of the Post Office with intent to induce that person—

“(i) To become or remain a member of the Post Office Union (Incorporated); or

“(ii) To cease to be a member of the Post Office Union (Incorporated); or

New

“(iii) Not to become a member of the Post Office Union (Incorporated); or

“(iii) On account of the fact that that person is or, as the case may be, is not, a member of the Post Office Union (Incorporated), to resign from any position or to leave any employment.

“(2) Neither the Post Office Union (Incorporated) nor any officer or other person acting on behalf of the Post Office Union (Incorporated) (whether lawfully authorised to do so or not) shall exert undue influence on any person with intent to induce that person—

“(a) To join the Post Office Union (Incorporated); or

“(b) On account of the fact that that person is not a member of the Post Office Union (Incorporated), to resign any position or to leave any employment.

“(3) Every person who contravenes **subsection (1)** or **subsection (2)** of this section shall be liable,—

“(a) If an officer of the Post Office Union (Incorporated) or person acting on behalf of the union (whether lawfully authorised to do so or not), to a penalty not exceeding \$500:

“(b) If the Post Office Union (Incorporated), to a penalty not exceeding \$1,500:

New

“(c) If the Director-General, to a penalty not exceeding \$1,500.

“(4) The Public Sector Tribunal shall have full and exclusive jurisdiction to deal with all actions for the recovery of penalties under this section.

“(5) For the purposes of this section, every reference to the Public Sector Tribunal shall be read as a reference to the Chairman of that Tribunal acting alone.

“(6) A penalty recoverable under this section shall be recovered in the same manner, with all necessary modifications, as a penalty for a breach of an award under the Industrial Relations Act 1973; and sections 151 to 157 of that Act (except subsections (1), (5), and (6) of section 151) shall apply accordingly with all necessary modifications.

“(7) An action for the recovery of a penalty in respect of an alleged contravention of **subsection (1)** or **subsection (2)** of this section may be brought only by the person or employee in relation to whom the contravention is alleged to have taken place.

“(8) The Public Sector Tribunal may delegate to any District Court Judge named by it its powers and functions to deal with an action under this section and the provisions of section 49 of the Industrial Relations Act 1973 (except those of subsection (6)) shall, with all necessary modifications, apply accordingly.

“(9) Nothing in this section renders unlawful the enforcement of a union membership clause that is included or deemed to be included in any determination.

20 “221Q. **Right to become member of Post Office Union (Incorporated)**—Every person who is obliged by a union membership clause to become a member of the Post Office Union (Incorporated), and who is not of general bad character, shall be entitled to be admitted to membership of the Post
25 Office Union (Incorporated); and so far as the rules of the Post Office Union (Incorporated) are inconsistent with the provisions of this section they shall be of no effect.”

4. Repeal—The Post Office Amendment Act 1983 is hereby repealed.

30 **5. Transitional provision in respect of union membership clauses**—(1) Every determination (made under section 219 of the principal Act or the State Services Conditions of Employment Act 1977) which binds persons employed in the service of the Post Office and which is in force on the
35 commencement of this Act shall, throughout the period of 18 months beginning on the (*commencement of this Act*) 1st day of July 1985, be deemed to contain, so long as that determination continues in force, a union membership clause.

(2) Every determination (made under section 219 of the principal Act or the State Services Conditions of Employment Act 1977) which binds persons employed in the service of the Post Office and which comes into force in the period of 18 months beginning on the date of the commencement of this Act shall, throughout the period beginning with the date on which the determination comes into force and ending on the expiry of the period of 18 months beginning on the date of the commencement of this Act, be deemed to contain, so long as that determination continues in force, a union membership clause.

(3) The Director-General may amend any determination to which **subsection (1)** or **subsection (2)** of this section applies by inserting in it the union membership clause deemed to be contained in it.

New

(3A) Notwithstanding anything in **subsections (1) to (3)** of this section, where, at any time in the period specified in **subsection (1)** of this section, a ballot is conducted pursuant to the rules included, or deemed to be included, by **section 221A (1)** of this Act in the rules of the Post Office Union (Incorporated),—

- (a) Any union membership clause deemed by **subsection (1) or subsection (2)** of this section to be contained in a determination by which members of the Post Office Union (Incorporated) are bound shall cease to have effect on the day following the date of the certificate by which the Registrar of Industrial Unions certifies, under **section 221G** of the principal Act, the result of the ballot; and
- (b) **Subsection (2)** of this section shall not have effect in respect of a determination which binds members of the Post Office Union (Incorporated) and which comes into force after the date of the certificate by which the Registrar of Industrial Unions certifies, under **section 221G** of the principal Act, the result of the ballot.

(4) This section shall have effect notwithstanding anything in the principal Act.

New

6. Transitional provision relating to obligatory rule concerning union membership clauses—Notwithstanding the provisions of **subsection (2) of section 221A** of the principal Act (as enacted by **section 3** of this Act), where the rules set out in **subsection (1) of section 221A** of the principal Act are deemed to be included in any rules in force at the commencement of this Act, it shall not be necessary to include the rules deemed to be so included in or to supply the rules deemed to be so included with any copy of those rules delivered or supplied before the 1st day of October 1985.