

# UNION REPRESENTATIVES EDUCATION LEAVE BILL

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## EXPLANATORY NOTE

THIS Bill, which comes into force on 1 July 1986, provides for authorised union representatives to be granted leave on pay by their employers so that those representatives may attend union education courses approved by the Trade Union Education Authority. The Bill binds the Crown.

### PART I

#### PAID EDUCATION LEAVE

This Part sets out the entitlements of unions in respect of paid education leave and provides for the granting of that leave.

Unions and employers may negotiate alternative entitlements but any such alternative entitlements must be, in their overall effect, as at least as favourable to the union as the rights and benefits provided for in *clauses 6 to 28* of the Bill.

### PART II

#### TRADE UNION EDUCATION AUTHORITY

This Part establishes the Trade Union Education Authority and sets out its membership, functions, and powers.

*Clause 38* of the Bill sets out those functions. One of the most important functions of the Authority is to approve union education courses for the purposes of paid education leave.

### PART III

#### MISCELLANEOUS PROVISIONS

*Clause 73* is the most significant of the provisions in this Part of the Bill. It provides for the dissolution of the Trade Union Training Board, an industry training board established under the Vocational Training Council Act 1968.

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Hon. Stan Rodger

## UNION REPRESENTATIVES EDUCATION LEAVE

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A BILL INTITULED

**An Act to provide for authorised union representatives to be granted leave on pay by their employers so that those representatives may attend approved union education courses**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Union Representatives Education Leave Act 1986. 10  
(2) This Act shall come into force on the 1st day of July 1986.

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

“Appointed member” means a member of the Authority who is appointed under any of the provisions of 15 paragraphs (a) to (e) of section 44 (1) of this Act:

“Approved union education course” means a union education course that has the approval of the Trade Union Education Authority:

“Authorised union representative” means, in relation to a 20 union,—

(a) A member of the union who has a function or role or an intended function or role, in addition to that of member, in the affairs of the union and who is designated by the union to attend a union 25

education course that is relevant to that function or role or intended function or role:

5 (b) A member of the union who belongs to a group of members of the union having particular educational requirements and who is designated by the union to attend a union education course that is relevant to those educational requirements:

10 (c) A member of the union who is designated by the union, with the agreement of that member's employer, to attend a union education course:

"Authority" means the Trade Union Education Authority established under this Act:

15 "Central organisation of employers" has the meaning given to it by section 2 (1) of the Industrial Relations Act 1973:

"Central organisation of workers" has the meaning given to it by section 2 (1) of the Industrial Relations Act 1973:

20 "Contract of employment" means a contract of service or apprenticeship:

"Education leave" means leave granted to an authorised union representative so that the authorised union representative may attend a union education course:

25 "Employee"—

(a) Means any person who has entered into or works under a contract of employment, whether by way of manual labour, clerical work, or any other work or effort whatsoever; and

30 (b) Includes—

(i) Any State employee; and

(ii) Any person who is a worker within the extended meaning given to the term "worker" by subsections (2) and (3) of section 2 of the Industrial Relations Act 1973; but

35 (c) Does not include an independent contractor:

40 "Employer" means any person employing an employee or employees; and includes a person who is an employer within the extended meaning given to the term "employer" by subsections (2) and (3) of section 2 of the Industrial Relations Act 1973:

"Employing authority" has the meaning given to it by section 2 (1) of the State Services Conditions of Employment Act 1977:

- “Service organisation” has the meaning given to it by section 5 of the State Services Conditions of Employment Act 1977:
- “Society of workers” means a society of persons lawfully associated for the purpose of protecting or furthering the interests of workers: 5
- “State employee” means—
- (a) Every person whose rate of remuneration is determined by an employing authority or a tribunal under the State Services Conditions of Employment Act 1977: 10
- (b) Every person whose rate of remuneration is determined under section 52 of the Hospitals Act 1957:
- (c) Every person whose rate of remuneration is determined under section 6 (3) or section 219 of the Post Office Act 1959: 15
- (d) Every person whose rate of remuneration is fixed by an award within the meaning of the Industrial Relations Act 1973 and who is employed pursuant to section 165c of the Education Act 1964 by an Education Authority: 20
- (e) Every person employed in the State services whose rate of salary is determined by the Higher Salaries Commission: 25
- “State services” has the meaning given to it by section 4 of the State Services Conditions of Employment Act 1977:
- “State Services Co-ordinating Committee” means the State Services Co-ordinating Committee established by section 13 of the State Services Conditions of Employment Act 1977: 30
- “Union” means an industrial union of workers registered under the Industrial Relations Act 1973; and includes— 35
- (a) A workers’ organisation registered under the Agricultural Workers Act 1977; and
- (b) A society of workers (whether incorporated or not and whether or not Part X of the Industrial Relations Act 1973 applies to that society); and 40
- (c) A service organisation:
- “Union education course” means an education course designed to assist authorised union representatives—
- (a) To become well-informed about industrial relations; or 45

(b) To participate in an active and well-informed manner both in the affairs of any union to which they belong and in their employment:

5 “Workplace” has the meaning given to it by **section 4** of this Act:

“Year” means a period beginning on the 1st day of July and ending with the close of the following 30th day of June.

**3. Act to bind the Crown**—This Act binds the Crown.

10 **4. “Workplace” defined**—(1) Subject to **subsections (2) to (4)** of this section, for the purposes of this Act, “workplace” means, in relation to any authorised union representative, the premises or place at which that representative carries out that representative’s work for that representative’s employer.

15 (2) A union and an employer may, in relation to any authorised union representative employed by that employer, from time to time enter into an agreement specifying as the representative’s workplace for the purposes of this Act such premises or place as the union and the employer consider  
20 appropriate.

(3) If there is no agreement in force under **subsection (2)** of this section in relation to any authorised union representative, the Authority may, on the application of the union or the representative’s employer, give a direction specifying as the  
25 representative’s workplace for the purpose of this Act such premises or place as the Authority considers appropriate.

(4) The Authority may at any time amend or revoke any direction given by it under **subsection (3)** of this section.

## PART I

### PAID EDUCATION LEAVE

30 **5. Application of this Part of this Act**—(1) Where provision is made by or under any Act other than this Act or by any award, agreement, contract of employment, or determination, for education leave, the following provisions  
35 shall apply:

(a) This Part of this Act shall not apply in any case where a union is entitled under any such provision—

40 (i) To rights and benefits that, while not the same as the rights and benefits provided for in **sections 6 to 28** of this Act, are in their overall effect as favourable to that union as the rights and benefits provided for in **sections 6 to 28** of this Act; or

(ii) To rights and benefits that are more favourable to that union in their overall effect than the rights and benefits provided for in **sections 6 to 28** of this Act; and

(b) This Part of this Act shall apply in any case where a union is entitled under any such provision—

(i) To the rights and benefits provided for in **sections 6 to 28** of this Act; or

(ii) To rights and benefits that are less favourable to that union in their overall effect than the rights and benefits provided for in **sections 6 to 28** of this Act.

(2) Nothing in this Part of this Act applies in relation to members of the Police of New Zealand.

#### *Entitlements*

**6. Entitlement to paid education leave**—Each union, whose members are employed in any workplace, shall be entitled to be allocated in accordance with this Act paid education leave.

**7. Standard entitlements**—(1) Subject to **subsection (2)** of this section and to **sections 8 to 12** of this Act, the number of days of paid education leave to be allocated to any one union by any one employer, in respect of any one workplace and in respect of any one year, shall be as follows:

Number of members of union who (after taking account of any full-time equivalents under <b>section 10</b> of this Act) are in full-time employment of the employer at the workplace	Number of days of paid education leave allocated to union
1-4 .. .. .	3 days
5-47 .. .. .	5 days
48-280 .. .. .	1 day for every 8 union members who are in the full-time employment of the employer at the workplace (with a maximum of 35 days)

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Number of members of union who (after taking account of any full- time equivalents under section 10 of this Act) are in full-time employment of the employer at the workplace	Number of days of paid education leave allocated to union
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In excess of 280 . . . . . 35 days plus, where the  
number of union members  
who are in full-time  
employment of the  
employer at the workplace  
exceeds 280, 5 days for  
every 100 or part thereof of  
those union members in  
excess of 280.

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10 (2) Where an employer employs at 2 or more workplaces  
and as full-time employees a total of not more than 14  
members of a union, the number of days of paid education  
leave allocated to that union, in respect of those workplaces or  
by that employer, shall not exceed 6.

15 **8. Entitlement of multiple unions**—(1) Subject to  
subsections (2) to (4) of this section, where the union members  
employed as full-time employees at any one workplace  
comprise members of 2 unions or of more than 2 unions, the  
entitlements of each of the unions to paid education leave shall  
20 be calculated in accordance with section 7 (1) of this Act.

(2) Where the persons employed as full-time employees by  
any one employer at any one workplace comprise members of  
a number of different unions and each of at least 3 of those  
unions are represented by not more than 4 members, the  
25 unions that are represented by not more than 4 members each  
shall be required to enter into an administrative arrangement  
whereby a total allocation of 6 days of paid education leave is  
shared between them on an annual basis or an allocation of 12  
days of paid education leave is shared between them on a 2-  
30 yearly basis.

(3) Where an employer employs as full-time employees at  
one or more workplaces a total of not more than 14 union  
members and those union members are not all members of  
the same union, the unions represented by those union  
35 members shall be required to enter into an administrative  
arrangement whereby a total allocation of 6 days of paid  
education leave is shared between them on an annual basis or



an allocation of 12 days of paid education leave is shared between them on a 2-yearly basis.

(4) Where an employer employs as full-time employees at one or more workplaces a total of not more than 4 union members and those union members are not all members of the same union, the unions to which those members belong shall enter into an administrative arrangement whereby the total allocation of 3 days of paid education leave is shared between them on an annual basis or an allocation of 6 days of paid education leave is shared between them on a 2-yearly basis.

**9. Calculation of entitlements of service organisations—**

The number of days of paid education leave to be allocated in accordance with any provision of **sections 7 and 8** of this Act to any union that is a service organisation shall be calculated as if—

- (a) Each employee of the Public Service were in the employ of the permanent head of the Department to which that employee belongs:
- (b) Each State employee (other than an employee of the Public Service) were in the employ of the branch of the State services to which that State employee belongs.

**10. Calculations in relation to part-time staff, casual staff, and seasonal staff—**(1) Where any union members are employed in a part-time or casual capacity at a workplace, entitlements under any provision of **section 7** or **section 8** of this Act on account of those union members shall be calculated on the basis of full-time equivalents using the following formula:

The aggregate of all ordinary hours paid for in respect of the workplace for a week = Equivalent number of union members employed full-time

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(2) Notwithstanding anything in **subsection (1)** of this section, where any union members are employed on a seasonal basis, entitlements under any provision of **section 7** or **section 8** of this Act on account of those union members shall be calculated on the basis of full-time equivalents using the following formula:

$$\frac{\text{The aggregate of all ordinary hours paid for in respect of the workplace for a period of one year}}{5 \quad \quad \quad 1872} = \text{Equivalent number of union members employed full-time}$$

**11. Accrual of existing union’s paid education leave—**

(1) Where a union is in existence immediately before the 1st day of July in any year, the entitlements of that union in respect of paid education leave for that year shall accrue on that date.

(2) The calculations required for the purpose of determining the entitlement accruing on that 1st day of July, shall,—

(a) In the case of any calculation required by any provision of sections 7 to 9 of this Act, be made as at that 1st day of July; and

(b) In the case of any calculation required by section 10 (1) of this Act, be made in respect of the week ending with the 30th day of June immediately before that 1st day of July; and

(c) In the case of any calculation required by section 10 (2) of this Act, be made in respect of the year ending with the 30th day of June immediately before that 1st day of July.

**12. Accrual of new union’s paid education leave—**

(1) Where a union is formed on or after the 1st day of July in any year, the entitlements of that union in respect of paid education leave for that year shall accrue on the day immediately after the expiration of the period of one month beginning on the day on which the union is formed.

(2) The calculations required for the purpose of determining the entitlement accruing on the day fixed by the application of subsection (1) of this section, shall,—

(a) In the case of any calculation required by any provision of sections 7 to 9 of this Act, be made as at the day so fixed; and

(b) In the case of any calculation required by section 10 (1) of this Act, be made in respect of the week ending with the day immediately before the day so fixed; and

(c) In the case of any calculation required by section 10 (2) of this Act, be made as if the aggregate of all ordinary hours paid for in respect of the workplace for a period of one year were 12 times the aggregate of all

ordinary hours paid for for the period of one month beginning on the day on which the union is formed.

**13. Restrictions on accumulation of paid education leave**—(1) Subject to **subsection (2)** of this section, where a union's entitlement in respect of paid education leave is not used in any year or is not used in full in any year, that entitlement or the balance of it shall, unless deferred in accordance with **sections 20 and 23** of this Act, expire with the close of the 30th day of June in that year. 5

(2) Where a union's entitlement in respect of paid education leave, or any part of that entitlement, has been allocated on a 2-yearly basis in accordance with an administrative arrangement entered into under **section 8** of this Act and the entitlement so allocated or the part so allocated is not used in the period of 2 years in respect of which it is allocated or is not used in full in that period of 2 years, the entitlement so allocated or the part so allocated or the balance of the entitlement or part so allocated shall, unless deferred in accordance with **sections 20 and 23** of this Act, expire with the close of that period of 2 years. 10 15 20

*Procedure in Relation to Administrative Arrangements*

**14. Notification of administrative arrangements**—(1) Where an administrative arrangement is entered into under **section 8** of this Act by any unions, those unions shall give written notice of that arrangement to— 25

- (a) The employer concerned; and
- (b) Where the arrangement affects the State services, the employing authority in relation to the relevant branch of the State services.

(2) The terms of any administrative arrangement in respect of which written notice has been given in accordance with **subsection (1)** of this section shall be final and binding not only on the unions by which the arrangement was made but also on the employer and, if the arrangement affects the State services, the employing authority to whom the written notice has been given. 30 35

**15. Power of Authority in relation to administrative arrangements**—(1) Where any unions are unable to decide on the terms of any administrative arrangement required for the purposes of **section 8** of this Act, the Authority may, on the application of— 40

- (a) Any of those unions; or

- (b) The employer; or
- (c) The employing authority in relation to the branch of the State services to which the union members belong,—  
settle the terms of the administrative arrangement.
- 5 (2) In settling the terms of such an administrative arrangement, the Authority shall have regard to—
- (a) The entitlements conferred by **sections 7 and 8** of this Act; and
- (b) The employer's operational requirements; and
- 10 (c) Such other practical considerations as it considers relevant.
- (3) Where the Authority settles the terms of such an administrative arrangement, it shall give written notice of those terms to—
- 15 (a) Each of the unions; and
- (b) The employer concerned; and
- (c) Where the arrangement affects the State services, the employing authority in relation to the relevant branch of the State services.
- 20 (4) The terms of any administrative arrangement determined by the Authority under this section shall be final and binding.
- (5) The Authority may, in its discretion, amend or revoke the terms of any administrative arrangement determined by it
- 25 under this section.
- (6) Subject to **subsection (7)** of this section, where the Authority settles, under this section, the terms of any administrative arrangement, that administrative arrangement shall expire with the close of the following 30th day of June.
- 30 (7) Where any administrative arrangement settled under this section provides for paid education leave to be allocated on a 2-yearly basis, that administrative arrangement shall expire with the close of the period of 2 years in respect of which the allocation is made.

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*Granting of Education Leave*

- 16. Union's obligation to notify employer**—(1) Where a union wishes an employer to grant paid education leave to an authorised union representative who is in the employ of that employer, the secretary of the union or an authorised
- 40 representative of the secretary of the union shall give written notice to the employer of the union's wish.
- (2) The notice under **subsection (1)** of this section shall state—

- (a) The name of the authorised union representative and facts showing, by reference to the definition of the term “authorised union representative” in **section 2** of this Act, how the person named comes within that definition; and 5
- (b) The approved union education course in respect of which leave is sought; and
- (c) The dates on which the approved union education course is to be held; and
- (d) The dates in respect of which leave is sought. 10
- (3) The notice under **subsection (1)** of this section shall be given to the employer not later than 2 weeks before the first date in respect of which leave is sought.

**17. Union’s obligation to have regard to employer’s operational requirements**—(1) The union, in giving a notice under **section 16** of this Act,— 15

- (a) Shall have regard to the employer’s operational requirements; and
- (b) Shall make every endeavour to ensure that approved union education courses do not clash with times that are known to be inconvenient to the employer. 20
- (2) Where a union wishes an employer to grant paid education leave to more than one of the union’s authorised union representatives so that they may be absent from the same workplace at the same time, that union shall, in having regard to the employer’s operational requirements in accordance with **subsection (1) (a)** of this section, endeavour to seek paid education leave for those representatives at times that will not interfere unreasonably with the employer’s business. 25 30

**18. Authority’s obligation to provide details of approved union education course**—(1) Every employer who receives a notice under **section 16 (1)** of this Act shall be entitled to receive from the Authority, on request in writing, details on the approved union education course in respect of which leave is sought. 35

(2) Every request under **subsection (1)** of this section shall be accompanied by a copy of the notice under **section 16 (1)** of this Act.

**19. Employer’s obligation to notify union**—(1) Every employer who receives a notice under **section 16 (1)** of this Act 40

shall, within 7 days after the date of the receipt of the notice, give to the union a written notice—

- (a) Stating the employer's decision with regard to the granting of the paid education leave sought; and
- 5 (b) Where the employer refuses to grant, in whole or in part, the paid education leave sought, the employer's reasons for the refusal.

(2) Where an employer who receives a notice under **section 16 (1)** of this Act fails, within the period specified in **subsection (1)** of this section, to give a notice to the union in accordance with that subsection, the employer shall, as from the close of that period, be deemed to have agreed that each of the authorised union representatives to whom the notice under **section 16 (1)** of this Act relates is entitled to take the whole of the paid  
15 education leave sought.

**20. Deferral of paid education leave**—(1) Where the employer defers, under **section 23** of this Act, the granting of paid education leave to an authorised union representative, the notice required by **section 19** of this Act shall state, in  
20 addition to the matters specified in that section,—

- (a) The operational requirements that make the deferral necessary; and
- (b) The period of deferral.

(2) The period of deferral shall end immediately before the  
25 earliest date on which the employer can reasonably be expected to grant paid education leave to the authorised union representative.

**21. Restrictions on paid education leave**—(1) Paid education leave granted under this Act to an authorised union  
30 representative shall not, unless the union and the employer of the authorised union representative agree, entitle the authorised union representative to be absent from work—

- (a) For more than 3 consecutive days at any one time; or
- (b) For more than 5 days in total in any one year.

(2) Where an authorised union representative is a State  
35 employee and the employer of that State employee is not the employing authority in relation to the branch of the State services to which that State employee belongs, the relevant employing authority may enter into an agreement under  
40 **subsection (1)** of this section as if it were the employer of the authorised union representative.

**22. Disentitlement**—(1) An authorised union repre-

sentative is not entitled to paid education leave under this Act if—

- (a) The notice required by **section 16 (1)** of this Act is not given strictly in accordance with **sections 16 and 17** of this Act: 5
  - (b) The union's entitlement in respect of paid education leave under this Act has been totally exhausted for the year or, in the case of a 2-yearly entitlement, the 2 years in respect of which the paid education leave was allocated: 10
  - (c) The union has no entitlement in respect of paid education leave under this Act:
  - (d) The granting of paid education leave to the authorised union representative would contravene **section 21** of this Act: 15
  - (e) The authorised union representative is no longer in the employ of the employer to whom the notice under **section 16 (1)** of this Act is given:
  - (f) Notice terminating the authorised union representative's employment has been given by the employer to the authorised union representative or by the authorised union representative to the employer: 20
  - (g) Notice suspending the authorised union representative's employment has been given by the employer to the authorised union representative: 25
  - (h) The course in respect of which leave is sought is not an approved trade union education course:
  - (i) Any part of the period of paid education leave sought falls within a period of deferral in force in respect of the authorised union representative under **sections 20 and 23** of this Act. 30
- (2) Where a union's entitlement in respect of paid education leave under this Act or the remaining balance of that entitlement, is less than the period of leave sought by a notice under **section 16 (1)** of this Act, the notice under **section 19** of this Act shall state how much of that entitlement remains. 35

### **23. Employer's right to defer paid education leave—**

- (1) Where an employer's operational requirements are such that that employer cannot reasonably be expected to grant paid education leave to an authorised union representative to whom a notice under **section 16 (1)** of this Act relates, that employer may defer the granting of paid education leave to that authorised union representative. 40

(2) The deferral shall be effected in accordance with **section 20** of this Act.

(3) The power conferred by **subsection (1)** of this section shall not, in respect of any one authorised union representative, be exercised more than once in any one year.

(4) Where the exercise of the power conferred by **subsection (1)** of this section prevents a union from using in respect of any year the whole of its entitlement to paid education leave in respect of that year, the balance of that entitlement may be carried forward until the following year.

(5) A dispute between an employer and a union in relation to the deferral of the granting of paid education leave to an authorised union representative is a dispute to which **section 32** of this Act applies.

15 **24. Wages**—(1) Where an authorised union representative is on paid education leave granted under this Act, the employer of that authorised union representative shall pay to that authorised union representative, in respect of each day on which that authorised union representative is on paid  
20 education leave granted under this Act, the same wages as that employer would have been obliged to pay to that authorised union representative if—

(a) That authorised union representative had been on holiday on that day; and

25 (b) That day had been one of the days (other than Anzac Day or Waitangi Day) specified in section 95 (2) of the Industrial Relations Act 1973; and

(c) That authorised union representative had been entitled to take that day as a holiday, on pay, in addition to  
30 annual holidays.

(2) Where provision is made by or under any award, agreement, or contract of employment for the wages that are to be paid to an authorised union representative by the employer of that authorised union representative while that  
35 authorised union representative is on paid education leave and those wages are greater than those payable pursuant to **subsection (1)** of this section, **subsection (1)** of this section shall not apply.

(3) Where an authorised union representative attends an  
40 approved union education course on a day on which that authorised union representative does not require the leave of the employer to attend the course, nothing in this Act requires the employer of that authorised union representative to pay



wages or other remuneration to that authorised union representative in respect of that day.

**25. Shift workers**—(1) Where an authorised union representative who is a shift worker is granted paid education leave under this Act, that authorised union representative shall not be required to work any shift that begins before noon on the day following the day on which the approved union education course ends. 5

(2) Where an authorised union representative who is a shift worker attends an approved union education course on a rostered day off, nothing in this Act requires the employer of that authorised union representative to pay wages or other remuneration to that authorised union representative in respect of that day. 10

**26. Limitation of employer's liability**—(1) The expenses of an authorised union representative's participation in a union education course are not, by virtue of this Act, the responsibility of the employer of that authorised union representative. 15

(2) Nothing in this section limits the provisions of **section 24** of this Act. 20

**27. Continuity of employment**—Where an authorised union representative resumes service with the same employer at the end of a period of paid education leave,—

(a) That authorised union representative's service, for the purpose of any rights and benefits that are conditional on unbroken service, shall not be broken by the taking of the paid education leave; and 25

(b) The period during which that authorised union representative was on paid education leave shall count— 30

(i) As time served under that authorised union representative's contract of employment (not being a contract of apprenticeship or a contract within the meaning of the Technicians Training Act 1967); and 35

(ii) Subject to **section 28** of this Act, as service for the purpose of any superannuation scheme to which that authorised union representative belongs in that authorised union representative's capacity as an employee of the employer. 40

**28. Contributions to superannuation schemes**—Nothing in **section 27 (b) (iii)** of this Act shall—

- 5 (a) Entitle an authorised union representative to have any period counted as service for the purposes of a superannuation scheme if that authorised union representative is required to pay contributions in respect of that period and has not done so; or
- 10 (b) Relieve an authorised union representative from any obligation under a superannuation scheme to pay contributions in respect of any period during which that authorised union representative is on paid education leave.

*Alternative Entitlements*

15 **29. Negotiation of alternative entitlements**—(1) A union or association of workers and one or more employers or an organisation of employers may enter into an agreement providing for rights, entitlements, benefits, and procedures that are to apply instead of all or any of those specified in **sections 6 to 28** of this Act.

20 (2) An agreement entered into under **subsection (1)** of this section may provide for the aggregation of entitlements on an employer or industry basis.

25 (3) The terms of any agreement entered into under **subsection (1)** of this section may be negotiated as part of the terms of settlement of any collective agreement or of any other instrument determining other conditions of employment of any member of a union.

30 (4) An agreement entered into under **subsection (1)** of this section shall have effect only if its effect, in relation to every union to which it applies, is such that the union's rights and benefits in respect of paid education leave are in their overall effect at least as favourable to the union as the rights and benefits provided for in **sections 6 to 28** of this Act.

35 (5) Where the employer of any State employees is not the employing authority in relation to the branch of the State services to which those State employees belong, the relevant employing authority may enter into an agreement under **subsection (1)** of this section as if it were the employer of the employees in that branch and any agreement so entered into  
40 shall prevail over any agreement entered into under that subsection by the employer of those employees.

**30. Filing and registration of instruments providing for alternative entitlements**—(1) Where an agreement is entered

into under **section 29 (1)** of this Act as part of the terms of settlement of any dispute or industrial question, the terms of that agreement shall,—

- (a) If the settlement is made under section 65 or section 66 of the Industrial Relations Act 1973, be included in the copy of the collective agreement registered under section 65 of the Industrial Relations Act 1973: 5
- (b) If the settlement is arrived at under section 82 of the Industrial Relations Act 1973, be included in the copy of the collective agreement registered under that section: 10
- (c) If the settlement is one to which section 30 of the Aircrew Industrial Tribunal Act 1971 applies, be included in the record in writing required to be made of the settlement: 15
- (d) If the settlement relates to agricultural workers, be included in an award or an agreement lodged under section 34 (1) of the Agricultural Workers Act 1977:
- (e) If the settlement relates to persons employed within the waterfront industry, be set out in an application made for an order of the Waterfront Industry Tribunal giving effect to those terms or in an agreement filed under section 33 of the Waterfront Industry Act 1976: 20
- (f) If the settlement relates to the State services, be included in a determination made under the State Services Conditions of Employment Act 1977: 25
- (g) If the settlement relates to persons employed in the service of the Post Office, be included in a determination made under the Post Office Act 1959: 30
- (h) If the settlement relates to persons employed in the service of the New Zealand Railways Corporation, be included in a determination made under the State Services Conditions of Employment Act 1977 (as applied by section 68 of the New Zealand Railways Corporation Act 1981): 35
- (i) If the settlement relates to persons employed in the service of the Fire Service Commission, be included in a determination made under the State Services Conditions of Employment Act 1977 (as applied by section 83 of the Fire Service Act 1975): 40
- (j) If the settlement relates to workers employed in a State coal mine, be included in an industrial agreement made under section 118 (2) of the Coal Mines Act 1979. 45

(2) No instrument shall be registered, certified, filed, recorded, or made under any Act mentioned in **subsection (1)** of this section, if the terms of any agreement that purports to have been entered into under **section 29 (1)** of this Act have been  
5 included in that instrument and the effect of those terms, in relation to any union to which it applies, is such that the union's rights and benefits in respect of paid education leave are less favourable to the union in their overall effect than the rights and benefits provided for in **sections 6 to 28** of this Act.

10 (3) Where the terms of any agreement that purports to have been entered into under **section 29 (1)** of this Act have been included in any instrument that is to be registered, certified, filed, recorded, or made under any Act mentioned in **subsection (1)** of this section, that instrument shall be accompanied by a  
15 written comparison between the rights and benefits provided for, in the case of the union, by **sections 6 to 28** of this Act and the overall effect of the rights and benefits that the union will have in respect of paid education leave if the terms of the agreement have effect.

20 (4) The written comparison required by **subsection (3)** of this section shall be prepared by the union.

**31. Notice of other instruments to be given to Registrar of Arbitration Court**—(1) No instrument (other than an instrument in which the terms of an agreement entered into  
25 under **section 29 (1)** of this Act have been included pursuant to **section 30 (1)** of this Act) which is made after the commencement of this Act and which provides for the granting of paid education leave shall come into force, and no paid education leave provided for in any such instrument shall be granted,  
30 until a union that is bound by that instrument—

(a) Has given to the Registrar of the Arbitration Court—

(i) Four copies of a written estimate of the number of full-time employees (including any full-time  
35 equivalents under **section 10** of this Act) to whom that instrument is intended to apply; and

(ii) Four copies of a written comparison between the rights and benefits provided for, in the case of the union, by **sections 6 to 28** of this Act and the overall effect of the rights and benefits that the union will  
40 have in respect of paid education leave if the instrument comes into force; and

(iii) Four copies of written particulars of the paid education leave provided for in that instrument; and

(iv) In the case of an instrument that is in writing, 4 copies of written particulars of that instrument (certified as correct by or on behalf of that party); and

(v) In the case of an instrument that is not in writing, 4 copies of written particulars of that instrument (certified as correct by or on behalf of that party); and

(b) Has received from the Registrar of the Arbitration Court a receipt issued under **subsection (2)** of this section. 10

(2) Subject to **subsection (5)** of this section, the Registrar of the Arbitration Court shall issue a written receipt in respect of all documents given to the Registrar of the Arbitration Court under **subsection (1)** of this section (which receipt shall indicate on its face that it is a receipt issued under **section 31 (2)** of the Union Representatives Education Leave Act 1986). 15

(3) The party to whom any such receipt is issued shall retain it for not less than 2 years.

(4) A copy of each document given to the Registrar of the Arbitration Court pursuant to **subsection (1)** of this section shall be forwarded by the Registrar to the Authority. 20

(5) The Registrar of the Arbitration Court shall not issue a receipt under **subsection (2)** of this section in respect of any instrument unless that Registrar is directed to do so by the Arbitration Court. 25

(6) The Arbitration Court shall not give a direction under **subsection (5)** of this section if the effect of the instrument, in relation to any union to which it applies, is such that the union's rights and benefits in respect of paid education leave are less favourable to the union in their overall effect than the rights and benefits provided for in **sections 6 to 28** of this Act. 30

*Miscellaneous Provisions in Relation to Paid Education Leave*

**32. Disputes**—(1) Where a dispute arises between an employer and a union in relation to the granting of paid education leave to any member of that union, the dispute shall be settled in accordance with the disputes provisions applicable in respect of disputes on the interpretation of the relevant award, collective agreement, order, determination, or other instrument or, if there are no such provisions, the provisions of the clause referred to in section 115 (1) of the Industrial Relations Act 1973 (which clause shall apply with all necessary modifications). 35 40

(2) Where, by virtue of **subsection (1)** of this section, the clause referred to in section 115 (1) of the Industrial Relations Act 1973 applies in respect of a dispute between a service organisation and an employer of State employees, that clause  
5 shall apply as if for the words “Arbitration Court” wherever they appear there were substituted in each case the words “Public Sector Tribunal”.

(3) Where, by virtue of **subsection (1)** of this section, the clause referred to in section 115 (1) of the Industrial Relations Act  
10 1973 applies in respect of any dispute and any party to the dispute appeals under subclause (6) of that clause against a decision of the committee constituted under that clause or any part of that decision, the decision to which the appeal relates shall remain in full force pending the determination of the  
15 appeal.

**33. Discrimination**—(1) It shall be unlawful for any employer or employing authority—

(a) To make it a condition to be fulfilled by any person who wishes to obtain or retain any position or  
20 employment that the person—

(i) Take education leave; or

(ii) Not take education leave; or

(b) To exert undue influence on any person with intent to induce that person—

25 (i) To take education leave; or

(ii) Not to take education leave; or

(iii) On account of the fact that the person has, or, as the case may be, has not, taken education leave, to resign from any position or to leave any  
30 employment.

(2) No union or association and no officer or other person acting on behalf of any union or association (whether lawfully authorised to do so or not) shall exert undue influence on any person with intent to induce that person—

35 (a) To take education leave; or

(b) On account of the fact that the person has not taken education leave, to resign from any position or to leave any employment.

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

(a) If an officer of a union or association or person acting on behalf of a union or association (whether lawfully

authorised to do so or not), to a penalty not exceeding \$500:

(b) If a union, association, employer, or employing authority to a penalty not exceeding \$1,500.

(4) Except where **section 34** of this Act applies, the Arbitration Court shall have full and exclusive jurisdiction to deal with all actions for the recovery of penalties under this section. 5

(5) For the purposes of this section, every reference to the Arbitration Court shall be read as a reference to a Judge of that Court acting alone. 10

(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), (2), (5), and (6) of section 151) shall, with all necessary modifications, apply accordingly. 15

(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. 20

(8) The Arbitration Court 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. 25

(9) Nothing in this section renders unlawful the enforcement of provisions relating to education leave that are included in any instrument.

**34. Jurisdiction of Public Sector Tribunal in respect of penalties for discrimination**—(1) Where an employer of State employees or an employing authority or a service organisation or an officer or other person acting on behalf of a service organisation contravenes **subsection (1) or subsection (2) of section 33** of this Act, the Public Sector Tribunal shall, in respect of the contravention, have full and exclusive jurisdiction to deal with all actions for the recovery of penalties under **section 33** of this Act. 30 35

(2) 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. 40

(3) 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 and 157 of that Act (except subsections (1), (2), (5), and (6) of section 151) shall apply accordingly with all necessary modifications.

5 (4) An action for the recovery of a penalty in respect of an alleged contravention of **subsection (1) or subsection (2) of section 33** of this Act may be brought under this section only by the person or employee in relation to whom the contravention is alleged to have taken place.

10 (5) 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.

15 (6) Nothing in this section renders unlawful the enforcement provisions relating to education leave that are included in any determination.

**35. Dismissal and other prejudicial acts in respect of employees—**

20 (1) Where any employer dismisses any employee (not being a State employee) or alters any such employee's position in the employment to the employee's prejudice, and at any time within 12 months before the employee's dismissal or alteration of position the employee—

(a) Had taken education leave; or

25 (b) Had been an employee in respect of which the grant of paid education leave was sought under **section 16 (1)** of this Act,—

30 the employer shall be liable to a penalty not exceeding \$1,500, to be recovered at the suit of the union to which the employee belonged at the time when the acts giving rise to the action for the recovery of the penalty were committed, in the same manner as a penalty for a breach of an award.

35 (2) Where any employer alters the rostered day off of any shift worker (not being a shift worker who is a State employee) in respect of whom a notice under **section 16 (1)** of this Act has been given and the effect of the alteration is such that a day in respect of which paid education leave is sought or has been granted becomes a rostered day off for that shift worker, the employer shall be liable to a penalty not exceeding \$1,500, to be recovered at the suit of the union to which the shift worker  
40 belonged at the time when the alteration was made, in the same manner as a penalty for a breach of an award.



(3) It shall be a defence to an action under **subsection (1)** of this section if the employer proves that the employee was dismissed or that the employee's position was altered for a reason other than that the employee had taken education leave or had been an employee in respect of which the grant of paid education leave was sought under **section 16 (1)** of this Act. 5

(4) It shall be a defence to an action under **subsection (2)** of this section if the employer proves that a shift worker's rostered day off was altered for a reason other than that paid education leave had been sought or granted in respect of the day that became by virtue of the alteration a rostered day off. 10

(5) If any case to which this section applies is also one to which section 117 of the Industrial Relations Act 1973 is applicable, proceedings may be taken under either the said section 117 or this section, but not under both. 15

(6) If any action for the recovery of a penalty is taken under **subsection (1)** of this section, and judgment is given against the employer, the Court, in addition to or instead of imposing a penalty under this section, shall make an order for the reimbursement to the employee of a sum equal to the whole of the wages lost by the employee as a result of the employee's dismissal or of the alteration of the employee's position; and may also in its discretion make an order for— 20

(a) The employee's reinstatement in the employee's former position or in a position not less advantageous to the employee; or 25

(b) The payment to the employee by the employer of such sum as the Court thinks fit by way of compensation; or

(c) Both such reinstatement and such payment. 30

**36. Procedures available to State employees**—Nothing in this Act limits the procedures by which State employees may enforce their conditions of employment and those procedures may be used, where appropriate, to enforce the rights conferred on State employees by this Act. 35

## PART II

### TRADE UNION EDUCATION AUTHORITY

**37. Establishment of Trade Union Education Authority**—(1) There is hereby established for the purposes of this Act an authority to be known as the Trade Union Education Authority. 40

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and, subject to this Act and to any other Act or rule of law, shall be capable of acquiring, holding, and disposing of real and personal property, of entering into contracts, of suing and being sued, and of doing and suffering all such acts and things as bodies corporate may do and suffer.

**38. Functions**—The functions of the Authority shall be—

- (a) To promote, coordinate, and monitor union education:
- 10 (b) To plan, develop, and undertake union education courses:
- (c) To approve union education courses for the purposes of paid education leave under this Act:
- (d) To advise and assist national, regional, and local union  
15 organisations to plan, develop, and undertake union education:
- (e) To provide a union education service by post or by electronic or other means:
- (f) To disburse such funds as the Government may from  
20 time to time vote for the purposes of encouraging the undertaking of union education:
- (g) To produce such teaching and other resource materials as may be required:
- (h) To undertake or arrange for the undertaking of research  
25 into aspects of union education:
- (i) To collect and disseminate information on all aspects of union education and on developments in union education both in New Zealand and overseas:
- (j) To make recommendations to the Government, Government departments, education agencies, and  
30 other appropriate bodies on matters relating to—
  - (i) Union education for union members:
  - (ii) Education about unions:
  - (iii) Adult education affecting union members:
  - 35 (iv) Education of workers generally:
- (k) To cooperate, where appropriate, with the International Labour Organisation (the ILO), the United Nations Educational, Scientific, and Cultural Organization (UNESCO), and other international authorities and  
40 union organisations on matters relating to the development of union education:
- (l) To evaluate its own effectiveness and that of any union organisation, educational body, or other agency

undertaking union educational activity and financed directly or indirectly by public funds:

- (m) To undertake such activities in relation to union education as the Minister of Labour or the Minister of Education, or both of them acting jointly, may from time to time assign to it. 5

**39. Powers**—(1) The Authority shall have all such powers as are reasonably necessary or expedient to enable it to carry out its functions.

(2) Without limiting the generality of **subsection (1)** or of any other provision of this Act, the Authority shall have power— 10

- (a) To establish regional offices:  
 (b) To spend any of its funds in the exercise of its functions or on any purpose ancillary thereto:  
 (c) To charge fees in respect of any service performed by it in the exercise of its functions. 15

**40. Approval of union education courses**—(1) The Authority may from time to time, on the application of a union, give the Authority's approval to any union education course. 20

(2) The Authority may from time to time withdraw its approval from any union education course.

**41. Records of approved union education courses**—

(1) Where a union education course is an approved union education course by virtue of any application made under **section 40 (1)** of this Act, the union that made that application shall supply to the Authority such records and other information relating to the union education course as the Authority may require from time to time. 25

(2) Where a union fails, in relation to any approved union education course, to supply records or information to the Authority in accordance with **subsection (1)** of this section, the failure shall of itself constitute a sufficient ground for the withdrawal under **section 40 (2)** of this Act of the Authority's approval of the union education course. 30 35

(3) Nothing in **subsection (2)** of this section limits the generality of **section 40 (2)** of this Act.

**42. Advisory, technical, and standing committees**—

(1) The Authority may from time to time appoint advisory committees, technical committees, and committees to deal 40

with the problems of particular industries or occupations, and to advise it on such matters as it may refer to them.

(2) Without limiting **subsection (1)** of this section, the Authority may appoint a standing committee of its members and may  
5 refer to it any matters for consideration, inquiry, or decision.

(3) The Authority may from time to time delegate to any committee appointed under **subsection (1)** or **subsection (2)** of this section any of its functions, powers, and duties, except this power of delegation.

10 (4) The Authority may appoint a member of any committee appointed under this section to be the Chairman thereof, and that power to appoint may be exercised by such committee where the Authority, on the appointment of the committee, does not appoint a Chairman. Any such committee may from  
15 time to time appoint a Deputy Chairman to act in the absence of the Chairman.

(5) The Authority may at any time and from time to time discharge, alter, continue, or reconstitute any such committee, or discharge any member of a committee and, if it thinks fit,  
20 appoint another person in the place of the discharged member.

(6) Every such committee may, in addition and on its own initiative, furnish to the Authority reports on any matter in respect of which the members of the committee have special  
25 knowledge or experience.

(7) Any person may be appointed to be a member of any committee appointed under **subsection (1)** of this section, notwithstanding that that person is not a member of the Authority.

30 (8) Every such committee shall in all matters be subject to the control of the Authority, and shall carry out all directions, general or special, of the Authority in relation to the Authority or its affairs.

(9) Subject to the provisions of this section, any such  
35 committee may exercise or perform any function, power, or duty delegated to it in the same manner and with the same effect as if it had been conferred on the committee directly by this Act and not by delegation.

(10) Any delegation under this section may at any time be  
40 revoked by the Authority.

(11) Every committee purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(12) No delegation under this section shall prevent the Authority from exercising any of its functions, powers, or duties.

(13) Subject to the provisions of this Act, every committee appointed under this section may regulate its procedure in such manner as it thinks fit. 5

**43. Specialist advice**—(1) The Authority and any committee appointed by the Authority under **section 42** of this Act may from time to time invite any person or any officer employed in the Government service, or a representative of any organisation, who, in its opinion, possesses expert knowledge or is otherwise able to assist it in connection with the exercise of its functions, to attend any of its meetings or to advise it on any matter with which it is concerned. 10

(2) Any person attending a meeting under this section may, if invited, take part in any discussion at the meeting, but shall not have any voting rights. 15

**44. Membership**—(1) The Authority shall consist of—

- (a) Five persons who shall be appointed on the joint nomination of the central organisation of workers and the Combined State Unions: 20
- (b) Four persons to represent regional union interests who shall be appointed on the joint nomination of the central organisation of workers and the Combined State Unions: 25
- (c) One person who shall be appointed on the nomination of the central organisation of employers:
- (d) One person who shall be appointed on the nomination of the State Services Co-ordinating Committee:
- (e) One person, being a person associated with adult education, who shall be appointed by the Minister of Education after consultation with the New Zealand Association for Community and Continuing Education Incorporated and the National Council of Adult Education: 30 35
- (f) The Director-General of Education or any other officer of the Department of Education nominated from time to time by the Director-General of Education:
- (g) The Secretary of Labour or any other officer of the Department of Labour nominated from time to time by the Secretary of Labour: 40
- (h) One person, being a member of the staff of the Authority or an education officer whose salary is subsidised to

the extent of at least 50 percent by the Authority, to be elected by the staff of the Authority and by those education officers whose salaries are so subsidised.

5 (2) The persons appointed under paragraphs (a) to (d) of subsection (1) of this section shall be appointed by the Minister of Labour.

(3) In the case of appointments under paragraph (a) or paragraph (b) of subsection (1) of this section, the Minister shall ensure in making an appointment that the interests of women and of Maori and Pacific Island communities are well represented.

**45. Terms of office**—(1) Except as otherwise provided by this Act,—

15 (a) Every appointed member shall hold office for such term not exceeding 3 years as the Minister of Labour or the Minister of Education, as the case may be, shall specify in the instrument appointing that member:

(b) Every elected member of the Authority shall hold office for a term of 2 years.

20 (2) Every appointed member and every elected member of the Authority may from time to time be reappointed or re-elected.

(3) Every appointed member and every elected member of the Authority, unless that member sooner vacates office under section 53 of this Act, shall continue in office until that member's successor comes into office, notwithstanding that the term for which that member was appointed or elected may have expired.

**46. Chairman**—(1) The Authority, at its first meeting held after the commencement of this Act, and at its first meeting held after the 1st day of July in the year 1987 and in each year thereafter, shall appoint one of its members to be Chairman of the Authority. Any such member may from time to time be reappointed as Chairman of the Authority.

35 (2) The Chairman appointed in each year shall hold office until the Chairman's successor is appointed or the Chairman sooner ceases to be a member of the Authority.

(3) If the Chairman ceases to be a member of the Authority before the expiration of the period for which the Chairman has been appointed, the Authority shall appoint some other member to be the Chairman of the Authority for the residue of that period.

**47. Deputies of members**—(1) The Minister of Labour may from time to time appoint any person qualified for appointment as a member of the Authority to be the deputy of any member appointed under any of the provisions of paragraphs (a) to (d) of section 44 (1) of this Act to act, pursuant to the terms of that person's appointment, in the event of the absence of the member from any meeting of the Authority. 5

(2) The Minister of Education may from time to time appoint any person qualified for appointment as a member of the Authority to be the deputy of any member appointed under paragraph (e) of section 44 (1) of this Act to act, pursuant to that person's appointment, in the event of the absence of the member from any meeting of the Authority. 10

(3) Every person appointed under subsection (1) of this section as the deputy of a member appointed under any of the provisions of paragraphs (a) to (d) of section 44 (1) of this Act shall be appointed on the nomination of the organisation or organisations which nominated the member for appointment. 15

(4) Any person appointed under subsection (1) of this section as the deputy of a member appointed under paragraph (e) of section 44 (1) of this Act shall be appointed after consultation with the bodies specified in that paragraph. 20

(5) Every deputy appointed under subsection (1) of this section shall hold office at the pleasure of the Minister by which that deputy was appointed. 25

(6) No act done by any deputy appointed under subsection (1) of this section in that capacity and no act done by the Authority while any such deputy is so acting, shall in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased. 30

**48. Disqualification from appointment or election**—The following persons shall be disqualified from being appointed or elected or becoming or holding office as an appointed member of the Authority or as an elected member of the Authority or as a deputy of an appointed member of the Authority; and if so appointed or elected shall be incapable of continuing to hold office: 35

- (a) A person who is bankrupt who has not obtained that person's final order of discharge, or whose order of discharge has been suspended for a term not yet expired or is subject to a condition not yet fulfilled: 40
- (b) A person convicted of any offence punishable by imprisonment, unless that person has received a free

pardon or has served the sentence imposed on that person or has otherwise suffered the penalty (if any) imposed on that person:

- 5 (c) A mentally disordered person within the meaning of the Mental Health Act 1969.

**49. Election of members**—(1) Such person as the Authority appoints shall be the returning officer for the purpose of conducting elections for members of the Authority.

- 10 (2) The elections of members of the Authority shall be conducted and determined, and rolls for the elections shall be prepared, in the manner prescribed by the Authority.

**50. Insurance in relation to members**—The Authority may from time to time enter into contracts of insurance insuring its members, and members of any committee  
15 appointed by it under **section 42** of this Act, against liability for damage to property arising out of and in the course of the exercise of their powers and duties as Authority or committee members, and may pay the premiums payable in respect of any such contract.

20 **51. Indemnity insurance**—The Authority may from time to time enter into contracts of insurance indemnifying itself and its employees against claims made against it or against any of its employees for loss or damage arising from any act or omission of the Authority or any of its employees while acting  
25 within the scope of their employment, and pay the premiums payable in respect of any such contract.

**52. Extraordinary vacancies**—(1) The Minister of Labour shall remove from office any appointed or elected member who—

- 30 (a) Becomes disqualified or incapable under **section 49** of this Act; or

(b) Is proved, to the satisfaction of the Minister of Labour, to have been guilty of neglect of duty or misconduct; or

- 35 (c) Is absent without leave of the Chairman from 4 consecutive meetings of the Authority.

(2) Any appointed or elected member may at any time resign the office by notice in writing addressed to the Minister of Labour.

- 40 (3) If any appointed member dies, or is removed from office, or resigns, the vacancy so created shall be filled by the election



or appointment, in the manner prescribed by **section 44** of this Act, of some person qualified for that office.

(4) Every person appointed or elected pursuant to **subsection (3)** of this section shall be appointed or elected for the residue of the term for which the person's predecessor was appointed or elected. 5

(5) The powers of the Authority shall not be affected by any vacancy in its membership.

**53. Meetings of Authority**—(1) Meetings of the Authority shall be held at such times and places as the Authority or the Chairman from time to time decides. 10

(2) The Chairman or any 2 members of the Authority may at any time call a special meeting of the Authority.

(3) At all meetings of the Authority, the quorum necessary for the transaction of business shall be 8 members. 15

(4) All questions arising at any meeting of the Authority shall be decided by a majority of the valid votes recorded by the members present. Any member may demand a poll to decide any question, but otherwise voting shall be carried out by a show of hands. 20

(5) The Chairman shall preside at all meetings at which the Chairman is present.

(6) In the absence of the Chairman from any meeting, the members present shall elect one of their number to preside at that meeting. The person so elected shall have and may exercise all the powers and functions of the Chairman for the purposes of the meeting. 25

(7) At any meeting, the presiding member shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote. 30

(8) The presiding member may adjourn any meeting until a specified time and to a specified place if that member considers that deliberation on a question will be furthered by such a course of action.

**54. Assent to resolution without a meeting**—A resolution in writing signed, or assented to by letter, telegram, cable, or telex message, by all members of the Authority shall be as valid and effectual as if it had been passed at a meeting of the Authority duly called and constituted. 35

**55. Procedure**—Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.

*Officers and Employees of Authority*

5 **56. Authority to appoint certain officers and employees**—(1) Subject to the provisions of this section, the Authority may from time to time appoint—

- (a) A director; and
- 10 (b) Such other officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient carrying out of its functions, powers, and duties under this Act or any other enactment.

15 (2) The director shall carry out such duties as may from time to time be assigned to the director by the Authority, and shall be responsible for the supervision of its officers and employees.

(3) The Authority may, subject to any contract of service, at any time terminate or suspend the employment of any of the  
20 Authority's officers or employees.

(4) Officers and employees of the Authority shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the Authority from time to time determines in agreement with the State  
25 Services Commission, or as the Minister of Labour from time to time determines in any case where the Authority and the State Services Commission fail to agree.

(5) Except as provided under **section 57** of this Act, no person shall be deemed to be employed in the service of Her Majesty  
30 for the purposes of the Government Superannuation Fund Act 1956 by reason of that person's appointment under this section.

(6) Any determination under **subsection (4)** of this section shall take effect on such date (whether the date thereof or any  
35 earlier or later date) as may be specified therein. If no date is so specified, the determination shall take effect on the date thereof.

**57. Superannuation or retiring allowances**—(1) For the purpose of providing a superannuation fund or retiring  
40 allowance for any of the officers or employees appointed under **section 56** of this Act sums by way of subsidy may from time to time be paid into any scheme under the National

Provident Fund Act 1950 containing provision for employer subsidy or into any other employer-subsidised scheme approved by the Minister of Finance for the purposes of this section.

(2) Notwithstanding anything in this Act, any person who immediately before becoming an officer or employee appointed under **section 56** of this Act is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 shall be deemed to be, for the purposes of the Government Superannuation Fund Act 1956, employed in the Government service so long as that person continues to be an officer or employee appointed under **section 56** of this Act; and that Act shall apply to that person in all respects as if that person's service as such an officer or employee were Government service.

(3) Subject to the Government Superannuation Fund Act 1956, nothing in **subsection (2)** of this section shall entitle any such person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with **subsection (2)** of this section, to a person who is an officer or employee appointed under **section 56** of this Act and is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to any such person, means the Authority.

**58. Employment of experts**—The Authority may commission any person, who in its opinion possesses expert knowledge or is otherwise able to assist it in connection with the exercise of its functions, to make such inquiries, conduct such research, make such reports and undertake such other duties as may be necessary for the efficient carrying out of any of its functions.

*Financial Provisions Relating to Authority*

**59. Remuneration and travelling allowances**—(1) The Authority is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) There shall be paid to the members of the Authority travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly.

(3) There may be paid to the members of any committee appointed under **section 42** of this Act, and to any person co-opted to advise or assist the Authority or any such committee, travelling allowances and expenses in accordance with the  
5 Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the members of any such committee and any person so co-opted to advise or assist the Authority or any such committee were members of a statutory Board within the meaning of that Act.

10 **60. Annual grant to Authority**—For the purposes of providing funds to enable the Authority to exercise its functions, the Minister of Finance shall in each financial year pay to the Authority, out of money appropriated by Parliament for the purpose, such sum as that Minister may  
15 approve.

**61. Investment of money**—Subject to the terms of any trust or endowment, any money which belongs to the Authority and which is not immediately required for expenditure by the Authority may be invested in any manner  
20 in which trustees are for the time being authorised to invest trust funds.

**62. Restrictions on borrowing**—The Authority may borrow money (whether on overdraft or otherwise) only with the prior consent of the Minister of Finance on such terms and  
25 conditions as that Minister may think fit to impose.

**63. Contributions to Authority for union education**—  
(1) Any local authority or other public body, any corporation sole, any company or other incorporated body, any unincorporated body of persons, any trustee or trustees  
30 (including any statutory trustee or trustees or board of trustees), or any other person may, unless expressly prohibited by any Act or by any instrument of trust, or by its constitution, make to the Authority, and the Authority may accept, grants or gifts (including devises or bequests) of money and property  
35 of every description whatsoever for the purposes of carrying out its functions.

(2) For the purposes of this section, the term “local authority” means a local authority within the meaning of Part I of the Local Authorities Loans Act 1956, whether by  
40 virtue of section 2 of that Act or of any Order in Council thereunder, or by virtue of any other Act; and includes such

other public bodies as are from time to time declared by the Governor-General in Council to be local authorities for the purposes of this section.

**64. Exemption from taxation**—The Authority shall be exempt from land tax and income tax. 5

**65. Bank accounts**—(1) The Authority shall open at such bank or banks as may be approved by the Minister of Finance, or at any branch or agency of any such bank, such accounts (including imprest and subsidiary accounts) as are necessary for the exercise of its functions and powers. 10

(2) All money received by the Authority, or by any person in that person's capacity as a member, officer, or employee of the Authority shall, as soon as practicable after it has come into the hands of the Authority or of any such person, be paid into the appropriate bank account. 15

(3) Every withdrawal or payment of money made by the Authority from its funds shall be authorised by a prior resolution of the Authority or shall be submitted to it for authorisation at its next ordinary meeting after the date of payment. 20

(4) Where the Authority authorises the withdrawal or payment of money from any such account, that withdrawal or payment shall be by a cheque signed by such person or persons as the Authority from time to time may authorise.

**66. Accounts and audit**—(1) The Authority shall keep full and correct accounts of all its financial transactions, assets, liabilities, and funds; and its accounts shall be audited by the Audit Office which for that purpose shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and stores and persons dealing therewith. 25 30

(2) The financial year of the Authority shall end on the 31st day of March or on such other date as may from time to time be directed by the Minister of Labour.

(3) At the end of each financial year, the Authority shall prepare an income and expenditure account showing its financial transactions for that year, together with a balance sheet as at the last day of the financial year. 35

(4) As soon as practicable after the end of its financial year, the Authority shall submit its income and expenditure account and balance sheet to the Audit Office for audit. 40

**67. Annual report**—(1) As soon as may be reasonably practicable after the end of each financial year, the Authority shall provide the Minister of Labour with a report of its operations for that year, together with a copy of its audited  
5 accounts for that year and the report of the Audit Office on those accounts.

(2) A copy of the report and of the accounts of the Authority together with a copy of the report of the Audit Office on the accounts, shall be laid before Parliament as soon as practicable  
10 after their receipt by the Minister of Labour.

**68. Unauthorised expenditure**—In any financial year the Authority may spend for purposes not authorised by this or any other Act any sum or sums not amounting in the aggregate to more than \$2,000.

15 **69. Members of Authority not personally liable**—A member of the Authority, or a member of any committee appointed under **section 42** of this Act who does any act in pursuance or intended pursuance of any provision of this Act or omits to do any act required by any such provision shall not  
20 be under any criminal or civil liability as a result of that act or omission, whether on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless the act was done or omitted in bad faith.

**70. Crown may provide services for Authority**—The  
25 Crown, acting through any Government department, may from time to time, at the request of the Authority, execute any work or enter into arrangements for the execution or provision by the Government department for the Authority of any work or service, or for the supply to the Authority of any  
30 goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

**71. Contracts of Authority and members**—The Authority is hereby declared to be a public body for the purposes of the Public Bodies Contracts Act 1959 and to be a local authority  
35 for the purposes of the Local Authorities (Members' Interests) Act 1968.

## PART III

## MISCELLANEOUS PROVISIONS

**72. Regulations**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 5

- (a) Prescribing forms for the purposes of this Act:
- (b) Prescribing procedures and practices for the implementation of this Act:
- (c) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of 10 this Act and for the due administration thereof.

**73. Dissolution of Trade Union Training Board**—(1) The Trade Union Training Board, an industry training board established under the Vocational Training Council Act 1968 by notice published in the *Gazette* of the 23rd day of April 1975, at 15 page 924, is hereby dissolved.

(2) Subject to **subsection (3)** of this section, all the property, rights, and liabilities of the Board shall vest without conveyance or assignment in and become property, rights, and liabilities of the Authority. 20

(3) No employee or former employee of the Trade Union Training Board shall be entitled,—

- (a) To receive from the Authority, under any agreement made by the Trade Union Training Board after the 31st day of December 1985, any payment or other 25 benefit by way of compensation for redundancy; or
- (b) To receive from the Authority any payment or other benefit by reason only of that employee or former employee of the Trade Union Training Board ceasing by virtue of this Act to be an employee of 30 that Board.

**74. Transitional provision in respect of members of Trade Union Training Board**—(1) The members of the Trade Union Training Board who are in office immediately before the commencement of this Act shall vacate office on the 35 commencement of this Act.

(2) No member of the Trade Union Training Board who vacates office under **subsection (1)** of this section shall be entitled to compensation for loss of that member's office as a member of the Trade Union Training Board. 40

(3) Nothing in this section prevents a member of the Trade Union Training Board who vacates office under **subsection (1)** of

this section from being appointed as a member of the Authority.

**75. Transitional provision in respect of employees of Trade Union Training Board**—Where any person who is an  
5 employee of the Trade Union Training Board immediately before the 1st day of July 1986 becomes, before the 1st day of August 1986, an employee of the Authority that person's service, for the purpose of any rights or benefits that are  
10 conditional on unbroken service, shall be deemed to have been unbroken and the period of that person's service with that Board shall be deemed to have been a period of service with the Authority.

**76. Transitional provision in respect of employees of Trade Union Postal Education Service**—Where any person  
15 who is an employee of the Trade Union Postal Education Service immediately before the 1st day of July 1986 becomes an employee of the Authority, the Authority may enter into an agreement with that person providing that that person's period of service with the Trade Union Postal Education  
20 Service shall be deemed, for the purposes of any enactment, law, award, determination, contract, or agreement specified in the agreement with that person, to have been a period of service with the Authority.

**77. Consequential amendments**—(1) The First Schedule to  
25 the Labour Department Act 1954 (as substituted by section 2 (2) of the Labour Department Amendment Act 1979) is hereby amended by inserting, in its appropriate alphabetical order, the following item:

“The Union Representatives Education Leave Act 1986.”

30 (2) The Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in the appropriate columns of Part II, after the provisions relating to the Testing Laboratory Registration Council (as inserted by section 28 (1) of the Testing Laboratory Registration Act 1972), the following  
35 words:

“The Trade Union  
Education Authority

1986, No. 00—The Union Repre-  
sentatives Education Leave Act  
1986.”

(3) The First Schedule to the Local Authorities (Members'  
40 Interests) Act 1968 is hereby amended by inserting in the appropriate columns of Part II, after the provisions relating to



the Tourist Hotel Corporation of New Zealand, the following words:

“The Trade Union Education Authority	1986, No. 00—The Union Repre- sentatives Education Leave Act 1986.”
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(4) The First Schedule to the Official Information Act 1982 is hereby amended by inserting, in its appropriate alphabetical order, the following item:

“Trade Union Education Authority”.