



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi
to the**

Education and Science Committee

on the

Industry Training and Apprenticeships Amendment Bill

P O Box 6645

Wellington

December 2013

1. Summary of Recommendations

- 1.1 Remove the amendment which provides for funding of non-ITO persons (Clause 15: new section 11A).
- 1.2 Retain the leadership role of Industry Training Organisations as provided for in Section 10(2) (e) of the Industry Training Act.
- 1.3 The power of the Minister to set conditions on ITOs should be limited to those instances where an ITO does not meet the requirements for recognition.
- 1.4 The Committee considers the compliance issues and risks for ITOs in respect of new NZQA powers as set out in Clause 16 new Sections 13A and 13B.
- 1.5 Change Clause 17, new Section 13F to provide that the apprenticeship training code will be agreed between the Tertiary Education Commission, the Industry Training Federation, Business New Zealand and the New Zealand Council of Trade Unions.
- 1.6 Amend Section 13 (a) of the Act to address the extent of provision of industry training to meet the needs of industry including those seeking training opportunities. Further, amend Clause 7 (Section 1A Purpose) of this Bill, to reflect in the purpose of the Act, to encourage and improve “the extent of provision and quality” of industry training.
- 1.7 Amend Section 13 of the Act to establish widespread consultation with stakeholders in industry training including through a regularly convened forum chaired by the Minister for Tertiary Education.
- 1.8 Add in Clause 16 a new Section 13 (c) to fund and facilitate peer support mechanisms for workers to encourage participation in industry training, identify barriers to learning and achievement, and provide active assistance with completions.
- 1.9 Replace the current wording in Section 6 (d) in order to develop fair and equitable governance arrangements at the highest level for the role of registered unions as the collective representative of employees in the governance of the organisation.

2. Introduction

- 2.1 This submission is made on behalf of the 37 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 330,000 members, the CTU is one of the largest democratic organisations in New Zealand.
- 2.2 The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.

- 2.3 All of the CTU affiliates have a strong interest in tertiary education, training and skills development. Union members are also parents, family members and part of local communities, and as such, are concerned with educational opportunities and success for their families and whānau.
- 2.4 The CTU has a vision of industry training that provides quality opportunities for all workers to build their skills to improve their well-being and that of their communities. This vision sees skills as a component of a high value, high performance economy that delivers sustainable incomes and decent work. In our vision there is a strong employer commitment to training, and to secure jobs that build trust and high performance, good engagement, and a culture of lifelong learning.
- 2.5 Unions are long term partners in vocational education and training. We recognise the value to workers of transferable skills that lie at the heart of the industry training model. These transferable skills underpin employability and a greater ability to establish and maintain an occupation. Along with other measures such as collective bargaining rights, transferable skills influence both employment security and decent pay. We support training systems which enable this to occur.
- 2.6 Unions have participated actively in the Industry Training Review that has resulted in this Bill.
- 2.7 Our main concerns about the Bill is the amendment which allows the Tertiary Education Commission (TEC) to enter into funding arrangements with 'persons' other than Industry Training Organisations (ITOs), and the removal of the statutory leadership role of ITOs.
- 2.8 We also question the need for such wide powers of discretion and direction for the Minister.
- 2.9 This submission occurs in a context where we are experiencing both high levels of unemployment and increasing demands from employers and workers for relevant skills. This Bill therefore should underpin an ambitious programme of vocational education and training (VET) as part of a broad sustainable development framework. That should include objectives to build a modern economy that can support good jobs, lifelong learning opportunities, and high performance workplaces.
- 2.10 These objectives are not reflected in this Bill. In fact, some of the clauses in this Bill, when added to the significant changes that ITOs have faced in the last two years, represent a destabilisation of the industry training system.

3. Background

- 3.1 The NZCTU supports industry training in the context of a wider vocational education and training framework. Around 70 percent of school leavers do not go to University. It is vital for

them as well as in the national interest that they have opportunities to develop and build on skills that can underpin employability into decent jobs.

3.2 Key features of industry training include:

- Flexible national qualifications system with different modes and entry points
- Learning on the job
- Transferable skills
- Return on investment matters – to the learner, the employer and the Government

3.3 This Bill is introduced in an economic and social context of relatively high unemployment. If we use the largest measure of unemployment (joblessness) there are 257,900 people out of a job. This is hugely damaging to the welfare of these people. This is especially the case if the period out of work is lengthy. One of the impacts of this joblessness is that opportunities to develop skills and experience are diminished.

3.4 There is also increasing incidence of insecure work. The CTU has estimated that around 635,000 workers are in some form of insecure work. The impact of insecure work should not be under-estimated. Contract labour, temporary work and fixed-term roles all create a workplace environment where the enterprise will buy (small) blocks of time from a worker, rather than form a stable employment relationship that creates engaged workers that are innovative and exhibit forms of discretionary effort in the context of that relationship. This makes it harder to accumulate skills and form relationships with employers that can lead to apprenticeship training agreements. It is harder for workers in insecure work arrangements to obtain qualifications, it extends the time to get such qualifications, and it is harder to access good support in that process.

3.5 There is still a very significant gender pay gap. A major factor is the persistence of lower rates of pay for work in female-dominated occupations which is of equal value to work in male-dominated occupations. Another factor is the extent of opportunities for women to develop training pathways that will lead to higher rates of pay.

3.6 Māori and Pasifika workers remain disadvantaged in the labour market. The review that underpins this Act needs to be consistent with the aspirations expressed in the Tertiary Education Strategy to support vocational education and training opportunities for Māori and Pasifika workers.

3.7 There has been a considerable focus by this Government on 'quality' aspects of industry training. In the process the scale of opportunities for engagement in industry training has reduced. The focus has been on the number of ITOs, credit completion rate, programme completion rate, and the overall review of industry training. While there were justified grounds to examine unsatisfactory completion rates, there is a concern that excluding 'marginal' trainees will have a negative impact. The Government has been explicit that there will be fewer trainees but with a higher subsidy (although it appears that in many cases the rate could be lower due to combining of the funding rate through the standard training

measure mechanism with the coordination fee). Now the focus needs to be much more on the scale of provision of industry training.

- 3.8 In October 2010 the Government announced reduced funding of \$55 million for industry training. This was not even redistributed within vocational education and training (e.g. targeted at youth transitions or language, literacy and numeracy). Financial support for the innovative peer support scheme for workplace learning (Learning Representatives) was withdrawn.
- 3.9 In respect of the Canterbury rebuild the CTU has consistently (e.g. in a speech¹ in July 2011 at the Industry Training Federation Conference) suggested using the time gap to fill the skills gaps, particularly as detailed information on demand for skills emerged. There has been some belated evidence of this approach but only on a tiny scale.
- 3.10 There is much debate about ‘relevance’ so that the provision of industry training is responsive to the needs of industry. With so many changes in the nature of jobs, new skill components, as well as risks around mismatch in the demand for and supply of skills, there is always pressure for the VET system to be responsive. Such responsiveness should not be to ‘industry’ narrowly defined. ‘Industry’ includes workers for instance. And the needs of workers are not momentary, they involve lifelong learning.
- 3.11 Insecure work and low pay are both factors contributing to a greater degree of inequality and increasing family poverty. Over two-thirds of workers earn less than the average wage. Low pay impacts on individuals but also families and communities. The solutions to low pay include mechanisms such as a lift in the minimum wage, greater adoption of employers of the living wage approach, a stronger framework for collective bargaining, and other measures to ensure better transmission of the benefits of improvements in productivity and the level of economic growth.
- 3.12 There is also a skills dimension to this inequality. If we are to build a high wage, high skill, high performance economy then we need an expanded focus on vocational education and training. Skills development is increasingly recognised as having an important role in reducing inequality. Paul Dalziel² refers to the skills mismatch as contributing significant to the country’s inequality crisis. The OECD³ has stated that:

“Skills have become the global currency of the 21st century. Without proper investment in skills people languish on the margins of society, technological progress does not translate into economic growth and countries cannot longer compete in an increasingly knowledge based society”.

¹ <http://www.itf.org.nz/assets/Events-and-Forums/2011-Events/ITF-Conference-2011/Conference-2011-presentations/KN6-Peter-Conway-PDF.pdf>

² Dalziel, P. (2013) Education and Skills in Rashbrooke, M. (Ed) *Inequality, A New Zealand Crisis*, Bridget Williams Books, Wellington New Zealand.

³ OECD, Better Skills, Better Jobs, Better Lives: A Strategic Approach to Skills Policies, OECD Publishing Paris, 2012, <http://skills.oecd.org/documents/OECDskillsStrategyFINALENG.pdf>

Further the OECD states⁴ that rising inequality is largely driven by inequality in wages between high skilled and low skilled workers and argues that the most promising solution to rising inequality is investing in skills throughout the life cycle from early childhood, through compulsory education and throughout peoples working lives.

- 3.13 Vocational education and training needs to be a higher priority for Government to support the 70 percent of school leavers that do not go to University. In addition, around 80 percent of the workforce today will be in the workforce of 2023 and on-going investment into VET is important for them also. The relative roles of Institutes of Technology and Polytechnics, ITOs and other organisations that make up the VET framework needs further attention so that we can develop a model in New Zealand that is closer to the success achieved in other countries (e.g. Germany, Scandinavian countries). All this points in a direction that has a much more ambitious vision for the role of industry training than what has emerged from the Industry Training Review and this Bill.

4. Specific Comments on the Bill

- 4.1 We comment below on areas of concern including direct access funding (to 'persons' other than ITOs), Ministerial powers and discretion, skills leadership and NZQA role.
- 4.2 We also note the positive steps in combining the apprenticeships into one model, and retention of key features of the industry training system including two of the three roles of ITOs.
- 4.3 We make some suggested additional amendments to improve the scale of provision of industry training, the extent of consultation with stakeholders, peer support for learners and the role of unions in governance.

5. Funding Agreements with Non-ITO persons

- 5.1 The CTU strongly opposes this amendment (Clause 15: new section 11A).
- 5.2 It is important to recognise that this amendment to provide a form of 'competition' for ITOs comes on top of significant changes to industry training in recent years. These changes include major restructuring within and across ITOs. There are new performance requirements and now the removal of one of the three statutory roles of ITOs and a very high level of insecurity for ITOs given the wide powers of discretion of the Minister and NZQA. Direct access to funding in the form of persons other than ITOs is a step too far in the name of competition. It risks serious atomisation of industry training. It is debatable whether it can be called 'industry' training if other organisations can qualify for funding in this way.
- 5.3 It also makes a coordinated VET approach to industry skills leadership even more complicated.

⁴ Ibid.

- 5.4 We do not believe this amendment will encourage and improve industry training. The amendments also risk a fracturing of the national focus on industry training. There is the possibility of the viability of ITOs being threatened if industry training funding under the Act for some major parts of the industry or industries the ITO covers is removed. This amendment could destabilise the ITO system.
- 5.5 There is already flexibility for employers to switch ITOs.
- 5.6 Employers or other organisations that receive such direct funding would not be on a level playing field with an ITO as they could arrange and also deliver training.
- 5.7 It also appears as if such non-ITO persons can perform the role of an ITO to a significant extent without the compliance and regulatory requirements that ITOs face. Monitoring and maintaining quality will be a major problem. The Bill already provides for significant levels of assurance on performance of ITOs.
- 5.8 The organisations with direct funding will not be required to involve others (including employers and collective representation of employees) in governance.
- 5.9 Whereas the Minister must consider the issue of unnecessary duplication of resources in an industry when recognising an ITO, there is no requirement to do this under the direct funding model.
- 5.10 The NZCTU sees this amendment as a further extension of the privatisation of education and channelling of public funds into the private sector. Whilst ITOs would retain the role of setting standards, the opportunity would exist for PTEs and other organisations to make arrangements for themselves or others for the delivery of training for an industry as well as monitoring that training and assessing the skills gained. Were this to happen, ITOs would be left with only the technical role of setting standards and moderating assessments.
- 5.11 Along with the removal of the leadership function, the Bill sets the scene for a savage reduction in the effectiveness and relevance of ITOs. The opportunity for groups of enterprises to set up their own training fundamentally undermines the roles of ITOs, as their very purpose will have been undermined by what is effectively a new type of ITO by a different name.
- 5.12 We submit that new Section 11A is removed from the Bill. We also submit that any other references in the Bill (including new subsection 13C (d) (ii)) of non-ITO organisations carrying out apprenticeship training activities be removed.

6. Training Contracts and Apprenticeship Training Agreements

- 6.1 The Bill consolidates modern apprenticeships into New Zealand apprenticeships. The Minister has stated that there will be a higher funding rate for apprentices but combining of

the funding rate (through the standard training measure mechanism) with the coordination fee will lead to lesser funding per apprentice per year in many cases. There will however be a variable rate between apprentices and trainees and that could create unwelcome effects. The combined effect of the requirements of credit and programme completion rates, the review of qualifications and a variable rate could risk greater exclusion of some people from training opportunities. It is essential that there are pathways available for all learners.

- 6.2 There are also considerable pastoral care issues for those also on a training contract so the assumption about a relatively lower rate for this training is questionable. Adequate and appropriate resourcing is vital to provide appropriate learning support to achieve qualifications.
- 6.3 There is therefore a related risk that in a less inclusive model in terms of encouragement of participation we could see a return to 'traditional' trade apprenticeships at the expense of a more inclusive VET system. This makes it difficult for those learners that employers and ITOs may see as 'marginal'. It also could result in fewer training opportunities for women.
- 6.4 As the Regulatory Impact Statement for this Bill states:

“Lower skilled workers (and occupations) tend to have lower rates of training. Public subsidies (focused at levels 1 to 4) are intended to address the lower private investment and increase participation at these levels, and hence address equity concerns”.

But there are also equity concerns within this (levels 1-4) cohort and the Government needs to be careful that this Bill does not exacerbate those concerns. If the incentives and support increasingly focus on apprenticeship training agreements then the nature and support for those on training contracts will be an issue.

7. Removal of the Statutory Skills Leadership role of ITOs

- 7.1 The skills leadership role currently involves:

“identifying current and future skill needs; and
developing strategic training plans to assist the industry to meet those needs; and
promoting training that will meet those needs to employers and employees”.

- 7.2 The CTU does not support the removal of this role which is currently a statutory requirement for ITOs. If ITOs, as the primary bodies for the development of standards and qualifications for industries, are not required to look ahead as predictors of future skill needs and to develop strategic training plans, then there is a risk of a short-term focus and no guarantee that industry training, in terms of content and allocation of resources, will lead industry into a productive future which is of overall benefit to New Zealand.

- 7.3 The Bill leaves it open for that leadership function to be adopted by ITOs voluntarily, but the Bill also allows for other organisations to take on this role. This is confusing, fragments the skills leadership role, and also undermines ITOs.
- 7.4 The most obvious outcome is that the leadership function of developing strategic training plans can take place outside of a framework which can adopt them and implement them.
- 7.5 Contrary to the General Policy Statement in the Bill, the current role of ITOs with regard to leadership is not just to communicate demand and supply of skill to Government agencies but to identify current and future skill needs, develop strategic training plans to assist the industry to meet those needs, and promote training that will meet those needs to employers and workers.
- 7.6 Section 11 of the Act still stands so in determining whether to fund an ITOs plan, the Commission must still have regard to a number of factors including:

“the desirability of introducing into the organisation’s industry (or the organisations’ industries) skills (whether new skills or enhanced existing skills) likely to increase its (or their) international competitiveness.”

But with the removal of the ITO role in skills leadership, ITOs would be faced with the requirements to make a number of predictions in their plan whilst competing with other bodies making arrangements for training in the same industry and in a context also of leadership being undertaken by other competing bodies.

- 7.7 The TEC⁵ has previously noted the need for a longer term strategic perspective on skills leadership:

“The reality is that producing a highly skilled employee, or incorporating new skills into existing qualifications and work-based training programmes, can take years. This means it is very important that there are mechanisms in place to get early warning of emerging skill shortages, to identify how they can be resolved, and to ensure the appropriate action is taken promptly by education and training providers, ITOs, employers, government agencies and other relevant stakeholders”.

- 7.8 At the time this role was introduced, the Government believed that ITOs were well placed to play this leadership role, because they have good access to industry information and the well-developed relationships needed to identify strategic skill and training issues their industries face. There was a guide developed using a 10-step process including characteristics of the industry, trends in ‘human resources’, demand and supply factors, current status of education and training, and so on leading to the development of a draft plan for feedback, modification, implementation and review.

⁵ Tertiary Education Commission “*Guidelines to Assist ITOs to Provide Leadership Within Industry on Skills and Training Needs*”.

- 7.9 The NZIER has described how the leadership role would be underpinned by analysis of broader demand factors such as drivers of skills demand, economic growth and income levels, demographic changes, consumer tastes, business cycles, global demand for the product or service, technology and productivity and changes in the regulatory/legislative environment. They also looked at broad factors that influence the supply of skills including motivations for entering an industry and its relative attractiveness.
- 7.10 Unions were always keen to see how promotion of an industry in this context would open up new opportunities for workers to gain skills and better jobs, and for conversations to start about industry standards and the relationship between migration and skills development opportunities for those workers already in New Zealand.
- 7.11 We have however expressed concerns that the skills leadership role has been poorly specified to date. It needs to at least have a template around the questions that a strategic approach to skills development must address. The Government should have a role in some resourcing and consolidation of expertise and methodology on this strategic role. It should not just be left as a vague expectation. We believe that such a template can underpin much greater cohesion and consistency around a model for skills leadership that can really drive change and responsiveness. It can include how to attract people to industries, emerging trends, include ways to promote workplace practices that encourage skill development and deploy workers so as to capture and reward the skills gained.
- 7.12 We submit that the removal of the statutory skills leadership role from ITOs should be deleted from this Bill. We seek the retention of the leadership role of Industry Training Organisations as provided for in Section 10(2) (e) of the Industry Training Act.
- 7.13 We further submit that the Committee should direct MBIE and TEC to work with ITOs to fully develop a more comprehensive skills leadership role. There is certainly room for improvement. But simply opening up this role to all-comers will not help.

8. Ministerial Powers on Recognition of ITOs

- 8.1 The Bill (Clause 11) states that “recognitionmay be subject to any conditions the Minister thinks fit”. It also states that the Minister can “at any time amend or revoke a condition of recognition or impose a new condition”.
- 8.2 There does not appear to be any boundary in terms of such conditions. It places ITOs in a difficult position where the security of recognition is completely undermined. These additional powers are not in our view required.
- 8.3 We recognise that significant levels of Government funding justify reasonable powers from Government. But the locus for industry training will move further from industry and closer to Government involvement in operational issues as a result of these amendments.

8.4 We submit that the power of the Minister to set conditions on ITOs should be limited to those instances where an ITO does not meet the requirements for recognition.

9. NZQA

9.1 The CTU recognises the important role of NZQA in respect of quality assurance of industry training.

9.2 The Bill however provides that the NZQA can set quality assurance requirements “without limitation” in respect of the management, operation and governance of ITOs. These provisions come on top of requirements already in the Act in respect of governance and other matters. This is a step too far.

9.3 Our major concern is that this Bill, in some respects, represents a ‘tipping point’ for industry training. Given the significant restructuring of ITOs, new performance standards, reduced funding and now a major review, there is a risk that the viability of ITOs as organisations is now under threat. It is in this context that we propose that the quality assurance role of NZQA should be less burdensome for ITOs, have less discretion, and should not duplicate or extend quality assurance requirements (e.g. relating to governance) that are already provided for in the Act, or through the role of TEC.

9.4 It is also not clear what role the NZQA has in respect of quality assurance in relation to funding Agreements with Non-ITO persons.

10. Apprenticeship Code of Practice

10.1 The Bill provides for the Minister to issue a code of practice training, to set guidelines about the responsibilities of apprentices, their employers, and persons carrying out apprenticeship training activities.

10.2 The CTU is aware of the current Modern Apprenticeship Code of Practice and was consulted in the course of its development.

10.3 We submit the following change to Clause 17, new Section 13F:

Delete (2) and replace with “the apprenticeship training code will be agreed between the Tertiary Education Commission, the Industry Training Federation, Business New Zealand and the New Zealand Council of Trade Unions”.

11. Other Matters

11.1 The CTU is seeking amendments to the principal Act (Industry Training Act 1992) to improve the scale of industry training, the extent of consultation, peer support, and an enhanced role for unions in governance.

11.2 The CTU is concerned that industry training should be responsive not just to quality requirements of vocational education and training but also to the scale of provision required both for a modern economy and to meet the needs of those seeking to improve their skills. We propose amending Section 13 (a) of the Act to add the words:

“and to a scale of provision that meets the needs of industry including those seeking training opportunities”.

Further we propose additional wording to Clause 7 of this Bill in Section 1A Purpose to add the words:

“the extent of provision and quality of” after the word “improve” in Section 1A (b).

11.3 It is important that the TEC facilitates consultation with appropriate stakeholders and ensures that the Minister has a role in this process. This should be reflected in the Act. We propose amending Section 13 by adding a new (g):

“to establish widespread consultation with stakeholders in industry training including through a regularly convened forum chaired by the Minister for Tertiary Education”.

11.4 There is a need for peer support mechanisms for workers to encourage participation in industry training and particularly in relation to literacy needs. We therefore propose adding in Clause 16 a new Section 13 (c) and renumber:

“to fund and facilitate peer support mechanisms for workers to encourage participation in industry training, identify barriers to learning and achievement, and provide active assistance with completions”.

11.5 Unions often have a role in governance of ITOs but it is marginal and at time subject to debate as to interpretation of the current Act. This role needs to be strengthened and clarified. The CTU recognises the importance of having an employer voice in the governance of ITOs. Unions generally have good relationships with ITOs and we see unions as long-term partners in vocational education and training. But the fact remains that the role in governance is not fair and equitable and is sometimes challenged. There is debate at times about whether there is any union representation, how much, and at what level of governance. We therefore propose to replace the current wording in Section 6 (d) with:

“develop fair and equitable governance arrangements at the highest level for the role of registered unions as the collective representative of employees in the governance of the organisation.”

12. Summary

12.1 The CTU is concerned that aspects of this Bill could destabilise industry training in the context of recent restructuring, new performance requirements, and funding constraints.

The Bill places ITOs in a state of constant insecurity where NZQA has powers ‘without limitation’ on some aspects and where the Minister can impose any condition at any time at the threat of de-recognition. In addition the strategic role of skills leadership is removed as a statutory ITO role.

- 12.2 We completely oppose the amendment to allow funding for non-ITO persons. This undermines the very concept of ‘industry’ training.
- 12.3 We also make recommendations to improve the scale of provision of industry training, the extent of consultation with stakeholders, peer support for learners and the role of unions in governance.
- 12.4 We urge the Committee to adopt the recommendations we have made in this submission.