

**Ministry of Education  
NZEI Te Riu Roa  
Collective Agreement  
for  
FIELD STAFF**

**From**

**7 December 2010 – 5 September 2012**

## INDEX

Clause	Title	Page Number
<b>PART 1</b>	<b>COVERAGE AND SCOPE</b>	<b>4</b>
1.1	Parties to the Agreement	4
1.2	Coverage	4
1.3	Term of Agreement	4
1.4	Definitions	5
1.5	Problem Resolution	5
1.6	Equal Opportunities & Pay and Employment Equity Provisions	5
1.7	NZEI/Ministry Relationship	5
1.8	Enhancing Collective Capability	6
<b>PART 2</b>	<b>GENERAL PROVISIONS</b>	<b>7</b>
2.1	Hours of Work	7
2.2	Appointment and Review Criteria	7
2.3	Disciplinary, Complaints and Competency Procedures	10
2.4	Working Conditions	12
2.5	Personal Files	13
2.6	Re-entry after Absence Due to Childcare	13
2.7	Organisational Change	14
2.8	Provision of Transport	22
2.9	Compassionate Grant	23
2.10	Continuity of Service	24
2.11	Preparation Time	24
2.12	Health and Income Protection Insurance	24
2.13	Notice of Termination	24
2.14	Flexible Departure Arrangements	24
2.15	Retirement on Medical Grounds	25
2.16	Death of an Employee	25
<b>PART 3</b>	<b>REMUNERATION</b>	<b>26</b>
3.1	Salary Scale	26
3.2	Placement on Initial Appointment	27
3.3	Progression through the Salary Scale	29
3.4	Review of Decision to Withhold Progression	29
3.5	Additional Responsibilities	30
3.6	Publication of Remuneration Statistics	30
3.7	Payment of Salaries	31
3.8	Regression	31
3.9	Additional Qualifications	31
3.10	Higher Duties Allowance	31
3.11	Te Reo Māori and Tikanga Māori Assessment	32
3.12	Approved Student Supervision Allowance	32
<b>PART 4</b>	<b>EXPENSES</b>	<b>34</b>

4.1	Expenses on Official Business	34
4.2	Subscriptions to Professional Associations	34
4.3	Expenses Incurred in the Use of Private Vehicles	34
4.4	Morning, Mid-day and Afternoon Tea	35
4.5	Transfer and Removal Expenses	35
<b>PART 5</b>	<b>HOLIDAYS AND LEAVE</b>	<b>36</b>
5.1	Service Recognition	36
5.2	Annual Leave	36
5.3	Public Holidays	37
5.4	Sick Leave	38
5.5	Leave for Family Reasons	39
5.6	Special Leave	40
5.7	Bereavement/Tangihanga Leave	42
5.8	Parental Leave	43
5.9	Long Service Leave	46
5.10	Employment Relations Education Leave	46
<b>PART 6</b>	<b>UNION MATTERS</b>	<b>47</b>
6.1	Union Access	47
6.2	Union Deductions	47
6.3	Leave for Union Meetings	47
<b>PART 7</b>	<b>EMPLOYMENT RELATIONSHIP PROBLEMS</b>	<b>49</b>
<b>PART 8</b>	<b>VARIATION</b>	<b>52</b>
<b>PART 9</b>	<b>SIGNATORIES</b>	<b>53</b>
<b>APPENDICES</b>		<b>54</b>
Appendix A	Applicable Legislation	54
Appendix B	Employment Relations Act 2000, sections 103 – 110	55
Appendix C	Relevant Qualifications and Previous Relevant Service Requirements	61
Appendix D	Lead Practitioner Provisions	65
Appendix E	Excerpts from Terms of Settlement	66

## **PART 1      COVERAGE AND SCOPE**

### **1.1      Parties to the Agreement**

The parties to this agreement shall be the Chief Executive of the Ministry of Education and the New Zealand Educational Institute Te Riu Roa (Inc).

### **1.2      Coverage**

1.2.1 This agreement shall be applicable to the following occupational groups employed by the Ministry and engaged in the delivery of specialist education services:

- Advisers on Deaf Children;
- Behaviour Support Specialists;
- Behaviour Support Teachers;
- Disability Facilitators;
- Early Intervention Teachers;
- Education Specialist Trainee;
- Intern Psychologist;
- Kaitakawaenga;
- Occupational Therapists;
- Physiotherapists;
- Pou-arahi-a-takiwa/District Māori Advisers;
- Psychologists;
- Special Education Advisers; and
- Speech Language Therapists;

providing that an individual employee may only be bound by this Agreement where they are, or become, a member of NZEI.

1.2.2 The parties agree that new occupations may be added to the coverage of this Agreement. Where a new permanent and substantive occupational group is to be established by the Ministry to deliver specialist education services in a similar manner to other occupational groups falling within the coverage of this Agreement, the job description for the occupation, including the required minimum professional and/or academic qualifications and previous relevant experience, will be provided to NZEI for discussion prior to advertising to fill the first position(s) to enable reasonable time for discussion and agreement around the appropriateness of coverage by this Agreement.

1.2.3 Where it is agreed under 1.2.2 that an occupational group not listed in 1.2.1 should be covered, the coverage provisions of this Agreement may be formally varied to include the new occupational group by exchange of letters between the Chief Executive of the Ministry of Education and the National Secretary of NZEI.

### **1.3      Term of Agreement**

This Agreement shall be effective from 7 December 2010 and it will expire on 5 September 2012.

## **1.4 Definitions**

- (a) NZEI, Union or Institute shall mean the New Zealand Educational Institute Te Riu Roa (Inc)
- (b) Employer shall mean the Chief Executive of the Ministry of Education (the Chief Executive)
- (c) SE shall mean Special Education
- (d) The Ministry shall mean the Ministry of Education

## **1.5 Problem Resolution**

The parties will endeavour to resolve any problems identified with the operation of this agreement as they arise.

## **1.6 Equal Opportunities & Pay and Employment Equity Provisions**

- 1.6.1 The Ministry is committed to promoting, developing and monitoring equal employment opportunities and programmes.
- 1.6.2 Attention is drawn to the Equal Employment Opportunities provisions of the State Sector Act 1988. This requires the Chief Executive to:
  - (a) in each year develop and publish an equal employment opportunities programme;
  - (b) ensure in each year that the equal opportunities programme for that year is complied with throughout the Ministry;
  - (c) include in the annual report of the Ministry of Education:
    - (i) a summary of the equal employment opportunities programme for the year to which the report relates; and
    - (ii) an account of the extent to which the Ministry was able to meet, during the year to which the report relates, the equal employment opportunities programme for that year.
- 1.6.3 An equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect to the employment of any persons or group of persons.
- 1.6.4 The parties agree that remuneration, job choice and job opportunities in the public service, public health and education sectors should not be affected by gender.
- 1.6.5 The parties will engage over pay and employment equity. The parties will develop a response plan for any inequities found as part of this process.

## **1.7 NZEI/ Ministry Relationship**

The parties to this agreement recognise the value of a relationship in which the Ministry and the union participate constructively in working to achieve outcomes in a way that best meets the objectives of the parties. This approach

has been facilitated by the Relationship Agreement and the Delegates/ Worksite Representatives Protocol.

## **1.8 Enhancing Collective Capability**

- 1.8.1 The Ministry will establish a dedicated fund for developing the collective capability of NZEI worksite representatives over the term of this agreement. A joint MoE/NZEI decision making body will be established to oversee and approve expenditure of the dedicated fund. Clear expectations will be set as to potential uses for the fund. This may included specific criteria (e.g. worksite representative capability building).
- 1.8.2 This fund is to provide resources in addition to those outlined in the current Worksite Representatives Protocol. Examples for use of the fund are:
  - Attendance at relevant courses (e.g. university or polytechnic courses, leadership training, change management, facilitation, public speaking, basic financial accounting) and associated travel and accommodation costs;
  - Time release from the worksite and where appropriate, for workplaces to back-fill for worksite representatives who are undertaking development work or other significant NZEI – MoE work.
- 1.8.3 The fund will be \$20,000 for the duration of the Collective Agreement.

## **PART 2      GENERAL PROVISIONS**

### **2.1      Hours of Work**

An employee shall normally work 37 hours 55 minutes each week, a week shall normally comprise Monday to Friday. With approval hours and/or days of work may be varied to accommodate either work on a part-time basis, or to take authorised leave of absence.

### **2.2      Appointment and Review Criteria**

#### **2.2.1   Advertising Positions**

All permanent positions must be advertised nationally.

#### **2.2.2   Categories of Employment.**

All positions shall be permanent. However, there is the provision for the employer to appoint a fixed term employee, into an existing permanent position in certain situations.

As a result the following types of employees may be appointed:

- (a) permanent full-time employees - employees who work full-time hours and have an expectation of ongoing employment;
- (b) permanent part-time employees - employees who work less than full-time hours and have an expectation of ongoing employment;
- (c) fixed term employees - employees may be appointed on either a full or part-time basis for a fixed term, and whose employment will end either:
  - at the close of a specified date or period; or
  - on the occurrence of a specified event; or
  - at the conclusion of a specified project

The employer must have genuine reasons based on reasonable grounds for specifying that the employment of the employee is to end in the way outlined in (c) above. The employer must also advise the employee of when or how his or her employment will end and the reasons for his or her employment ending in that way.

Usually this detail is set out in the letter of appointment.

All positions shall be permanent provided that the employer may also authorise the appointment of fixed term employees. As a result the following types of employees may be appointed:

#### **2.2.3   Part-time Employment**

- (a) Employees may apply to the Chief Executive or delegated nominee for approval to work part-time on a permanent basis.
- (b) Employees may be permitted to work reduced hours where there are special circumstances as approved by the Chief Executive or delegated nominee.
- (c) Part-time and reduced hour employees are entitled to the same conditions of employment as full-time employees provided that:
  - (i) salaries and allowances in the nature of salary will be paid on a pro-rata basis;
  - (ii) for paid leave, such employees will be paid at the rate that is being paid for the current working week.
- (d) Reimbursing expenses and leave without pay will be granted as for full-time employees.

#### 2.2.4 Job Sharing

- (a) Where two people each holding permanent positions at the same level wish to share one job, an employer may designate one of the positions as a shared position and appoint the two applicants without advertising the vacancy. If one of the two joint holders subsequently leaves SE the other has the right to assume responsibility for the position.
- (b) Any two applicants may jointly apply for appointment to a position which has been designated as shareable and they will be assessed as one applicant. If one of the holders of a shareable position resigns, the employer may appoint the other holder to the position without advertising the position.
- (c) With respect to (a) and (b) above, where the full responsibilities of the position are not taken up the following options apply:
  - (i) the employer may agree to another suitable person to share the Position, however the position would need to be advertised.
  - (ii) the employee will be confirmed in the relevant proportion of part-time work originally assigned under the shared position without the need to readvertise the position;
  - (iii) For (b) only and where neither (i) or (ii) is able to be implemented because of the key requirements of the position, the employee will be given the appropriate notice of termination. During this period the employee will be invited to apply for suitable vacancies. Where the employee is unsuccessful in winning a position the employee's employment will be terminated.
- (d) Salaries shall be paid on a pro rata basis. Increments shall be payable

on the same basis as for full-time employees, i.e. on the anniversary date of the appointment to the job share position.

- (i) Public holidays - Public holidays are only available where the employee would normally work on the particular day on which the public holiday falls.
- (ii) Annual and Sick Leave - as for part-time employees.
- (iii) Other leave would be available on the same basis as permanently appointed full-time employees.

#### 2.2.5 Fixed Term Employees

- (a) Except as outlined below a fixed term employee shall be regarded as permanent for the operation of the terms of this agreement when:
  - (i) the appointment is for more than one year; or
  - (ii) each period of fixed term service within a single twelve month period adds up to one year's service.
- (b) The provisions for fixed term employees employed for less than a year, will be the same as for permanent employees or as specified in the appropriate clause or section.
- (c) If a fixed term employee is working in place of a permanent employee, the fixed term employee will be advised that the period of employment is dependent on the notification of the date of return of the permanent employee.
- (d) Transfer and travel expenses in taking up the position shall be as for other employees i.e. by negotiation and agreement between the employer and employee or agent including assistance to and/or from the location.
- (e) Expenses incurred in the carrying out of official business shall be as for other employees i.e. reimbursement on an actual and reasonable basis.

#### 2.2.6 Appointment Criteria

- (a) Attention is drawn to the State Sector Act 1988 insofar as it provides that the person best suited to the position shall be appointed. In applying that section the employer will have regard to the experience, qualifications and abilities relevant to the position and such other relevant matters as it determines.
- (b) Employers are required to make available to all applicants on request details of the duties to be carried out and the criteria being adhered to in making that appointment.
- (c) Equal employment opportunities principles shall be applied and demonstrated in appointment procedures.

### 2.2.7 Review of Appointment

- (a) Employees shall have the right to request a review in relation to any appointment or any aspect of the appointment process (whether or not the employee was an applicant) except for acting appointments.
- (b) The review process is available from the employee's manager, the Human Resources Group in National Office or on the Ministry Intranet.
- (c) A review is initiated by lodging an application for a review, in writing, with the Group Manager Human Resources within 5 working days of the formal notification of the provisional appointment.

### 2.2.8 Appointment to positions Education Specialist Trainee and Intern Psychologist

- (a) Subject to the requirements of the Employment Relations Act appointment to both the EST and Intern Psychologist positions will be by way of fixed term appointment.
- (b) Following completion of a recognised Psychologist Internship Programme there is no expectation of ongoing employment past the date specified in the letter of appointment and/or employment agreement.

## 2.3 **Disciplinary, complaints and competency procedures**

### 2.3.1 Complaints

- (a) Where there appear to be concerns, discussion between the complainant, the employer and employee (where appropriate) may resolve matters of concern. Where this is not the case, further action can only be taken if those matters become complaints (i.e. are set down in writing and endorsed by the complainant) to the employer.
- (b) The employee must be advised of her/his right to request union assistance and/or union representation at any stage.
- (c) Written complaints should be referred to the employee concerned for reply.
- (d) The employer shall consider the employee's reply before making a decision. Anyone who has a 'personal interest' in a complaint shall take no part in the decision making about the complaint.
- (e) Every effort shall be made by the employer to reconcile the differences involved and achieve an outcome that is fair to the employee and the complainant.

- (f) Nothing in this clause prevents the employer from initiating disciplinary procedures in terms of clause 2.3.2.

### 2.3.2 Disciplinary Procedures

In any disciplinary procedures initiated by the employer against an employee the following principles shall be observed:

- (a) The employee must be advised of her/his right to request union assistance and/or union representation at any stage.
- (b) The employee must be advised in writing of the specific nature of the alleged conduct and a reasonable opportunity provided for the employee to respond.
- (c) The employee must be advised in writing of any corrective action required to amend her/his conduct and given a reasonable opportunity to do so.
- (d) Before any substantive disciplinary action is taken, an appropriate investigation is to be undertaken by the employer.
- (e) Depending upon the seriousness of the misconduct, an oral warning should usually precede a written warning.
- (f) The process and results of any disciplinary action are to be recorded in writing, sighted and signed by the employee as having been seen, and placed on their personal file.
- (g) If the alleged conduct is sufficiently serious an employee may be either suspended on pay or transferred temporarily to other duties, pending an investigation under sub clause (d) above. In exceptional circumstances an employee may be suspended without pay.
- (h) An employee who has been suspended under sub clause (g) above and the allegation is found to be without substance must be entitled to resume the position from which he/she was suspended.
- (i) An employee aggrieved by an action taken by the employer must be advised of her/his right to pursue a grievance in terms of the personal grievance procedures contained in Part 7 of this agreement.
- (j) Nothing in this section prevents instant dismissal without notice in the case of serious misconduct.

### 2.3.3 Competency

Where there are matters of competency which are causing concern, the employer shall put in place appropriate collegial professional and personal

guidance to assist the employee in the task to be accomplished. If this professional assistance has not remedied the matters of competency causing concern the following provisions should govern the action to be taken.

- (a) The employee must be advised of her/his right to request union assistance and/or union representation at any stage.
- (b) The employer must advise the employee in writing of specific matter(s) causing concern and of the corrective action required and the timeframe allowed.
- (c) The process and results of any evaluation are to be recorded in writing, sighted and signed by the employee.
- (d) A copy of any report made by the employer shall be given to the employee.
- (e) No action shall be taken on the report by the employer until the employee has had reasonable time to comment (in writing or orally or both) to the employer.
- (f) The process to be followed will be consistent with and managed in accordance with the Ministry's policy. The policy contained in 'A Manager's Guide to Performance and Disciplinary Problems' is available on the Ministry's Intranet or from the employee's manager.

## **2.4 Working Conditions**

2.4.1 The Ministry is responsible for providing good and safe working conditions and opportunities for the enhancement of the abilities of individual employees under the State Sector Act 1988 and the Health and Safety in Employment Act 1992.

- (a) Employees will only be required to work in situations where there is no heightened personal risk and the facilities and equipment are appropriate to the task.
- (b) The parties agree in principle that responsibility for offering pre-exposure immunisation to employees rests with employers who should accept responsibility for safety in the workplace, advised as necessary by the Health officials.
- (c) In situations where employees may be at significantly increased risk of acquiring hepatitis B or similar diseases because of the nature of their job, the situation shall be assessed on an individual basis to decide if immunisation programmes would be set up to cover all employees covered by this agreement.
- (d) In all situations where there is a risk of infection, it shall be the duty of employers to require safe working practices on the part of employees and to ensure appropriate hygiene measures are followed to

reduce such risk to a minimum, whether or not immunisation is considered advisable.

## **2.5 Personal Files**

Employees shall have access to their personal files in accordance with the Privacy Act 1993. This Act outlines responsibilities for the collection, storage and availability of personal information.

## **2.6 Re-entry after absence due to Childcare**

2.6.1 An employee who resigned from a permanent position to care for pre-school children may apply to re-enter the Ministry under preferential provisions provided that:

- (a) The absence does not exceed four years from the date of resignation or, five years from the date of cessation of duties to take up parental leave.
- (b) The applicant must:
  - produce a birth certificate for the pre-school child;
  - sign a statutory declaration to the effect that absence has been due to the care of a pre-school child and paid employment has not been entered into for more than 20 hours per week.
- (c) An applicant seeking to return to the Ministry should give at least three months notice and renew that notice at least one month before the date he/she wishes to return to work or one month before the expiry of the period in (a) whichever is the earlier.

2.6.2 Where the employee meets all the provisions of clause 2.6.1 above, and at the time of application:

- (a) has the necessary skills to fill competently a vacancy which is available in the Ministry; and
- (b) the position is substantially the same in character and at the same or lower salary and grading as the position previously held,

then the applicant under these provisions is to be appointed in preference to any other applicant for the position.

2.6.3 There shall be no right of review against the appointment of an applicant under these provisions unless the applicant is appointed to a position at a higher grade than that held at the time of resigning.

2.6.4 If an applicant under this provision is not appointed to any position within three months after the expiry of the period in clause 2.6.1(a) the benefits of these provisions will lapse.

2.6.5 Absence for child care reasons will interrupt service but not break it. The period of absence will not count as service for the purposes of sick leave or annual leave or any other leave entitlement.

## **2.7 Organisational Change**

### 2.7.1 Principles

The parties to this agreement recognise the serious consequences that the loss of employment can have on individual employees and propose to minimise this as far as possible by using the provisions of this agreement to keep as many employees as possible in employment.

The NZEI recognises the right of management to plan, manage, organise and finally decide on the operations and policies of the Ministry.

The aim of these provisions will be to reach agreement and make recommendations to management, who will endeavour to take the views into account as far as possible before making final decisions.

Counselling for an affected employee(s) and their families will be made available if necessary.

### 2.7.2 Application

These provisions will apply to all employees who for all intents and purposes have an ongoing expectation of employment. They will not apply to employees engaged as fixed-term employees (as defined in clause 2.2.2 of this agreement) who have reached the expiry of their agreement.

### 2.7.3 Advice and Consultation

The NZEI will be advised by the Chief Executive of any review which is likely to result in significant changes to the organisational structure, staffing or work practices affecting employees. The Chief Executive will provide the NZEI with an opportunity to be involved in the review. Where the decision to make a change or to undertake a review is beyond the control of the Chief Executive this notification will be made as soon as possible after the decision is announced.

### 2.7.4 Identification of Affected Staff

When, as a result of the review referred to above and at the conclusion of the consultative process, the Chief Executive requires a reduction in the number of employees, or employees can no longer be employed in their current position, at their current remuneration or work location (i.e. the terms of appointment to their present position are altered), the affected staff will be identified to the NZEI and every attempt will be made to accommodate those staff and the

following provisions will apply.

#### 2.7.5 Managed Attrition

Attrition means that as people leave their jobs because they retire, resign, transfer, die or are promoted then they may not be replaced. In addition, or alternatively, there may be a partial or complete freeze on recruiting new employees or on promotions.

Within the context of a process of organisational change, the Chief Executive may operate a policy of managed attrition either within a particular affected work situation or across the wider organisation.

Where the Chief Executive determines that a freeze is necessary the NZEI will be consulted as to how the freeze would apply.

The parties recognise that attrition can have an effect on employees and their ability to meet Ministry objectives. The policy will be regularly reviewed by the Chief Executive to address organisational, operational or training issues.

#### 2.7.6 Reconfirmation and Reassignment

The Chief Executive may, following consultation and agreement with the NZEI (which will not be unreasonably withheld), either reconfirm in the same or similar position, or reassign to an alternative position for which they are suitable, those employees affected by a review.

Where reconfirmation or reassignment takes place within the Ministry the provisions in 2.7.7 and 2.7.8 below will apply.

#### 2.7.7. Reconfirmed in Position

The parties agree that use of the reconfirmation provisions will be maximised in terms of placements to a suitable position within the Ministry. The following principles will apply:

- (a) Where there is only one employee who is a clear candidate for a position and the criteria below are met, then that employee is to be confirmed in it.
- (b) The criteria for reconfirmation shall be as follows:
  - (i) The new job description is the same (or very nearly the same) as what the employee currently does;
  - (ii) The salary for the new position is the same;
  - (iii) The new position has terms and conditions of employment (including career prospects) agreed with the NZEI that are no less favourable;
  - (iv) The location of the new position is the same (NOTE: this need not necessarily mean the same building and/or the same street).

In those situations where there is more than one clear candidate the position will be advertised among those candidates, with appointment made as per normal Ministry appointment procedures;

- (c) Proposed reconfirmations will be advised to all affected employees to enable them to assess whether they meet the criteria. For those employees who meet the criteria and do not wish to be reconfirmed the only option available will be leave without pay.
- (d) Job descriptions (current and proposed) shall be available to those employees who are to be reconfirmed at the time that the reconfirmation list is published.
- (e) The NZEI may propose that an employee be reconfirmed where that employee believes their current job is sufficiently similar to a new job.

#### 2.7.8 Reassignment

Following reconfirmation, and where under 2.7.6 above, agreement has been reached between the Chief Executive and the NZEI on reassignment, if there are any vacant positions, then the Chief Executive and the NZEI will meet to assess the skills of all those employees still left without a position, and to reach agreement for appointment to new positions.

- (a) In determining the parameters for reassignment, the Chief Executive and the NZEI will deal with cases on an individual basis, with a view to placing as many employees as possible by matching individual skills with positions which require similar skills. Interviews may be held to determine the level of skill. This exercise may involve individuals undertaking some on-the-job training or attending training courses. Such training needs will be identified prior to the individual being reassigned.
- (b) Employees to be reassigned under this process shall be consulted prior to any appointment being made.
- (c) Where a suitable reassignment is offered and this offer is not accepted the employee will not be surplus and the provisions relating to surplus employees will not be available. A suitable position shall mean a position, at a similar responsibility level, in which an employee can adequately perform the duties with their current skills and knowledge and;
  - the offered employment is within a reasonable commuting distance from their home; and
  - the salary, and conditions are no less favourable; and
  - the duties and responsibilities are comparable.
- (d) Where a suitable reassignment is offered at a lower salary, an equalisation allowance will be paid to preserve the salary of the employee at the rate paid in the old job at the time of reassignment. In

these circumstances, the employee may decline the reassignment offer and retain access to the surplus employee provisions of this agreement.

The salary can be preserved in the following ways:

- A lump sum to make up for the loss of basic pay for the next two years (this is not abated by any subsequent salary increases); or
  - An ongoing allowance equivalent to the difference between the present salary and the new salary. (This is abated by any subsequent salary increases.)
- (e) Where the new job is at a location outside the local area, assistance with transfer expenses shall be provided on the basis that the employee should not suffer financial loss in respect of expenses incurred as a result of transfer. In these circumstances, the employee may decline the reassignment offer and retain access to the surplus employee provisions of this agreement.

A decision will be made by the Chief Executive on the provisions to be applied in each particular case. A package from the range of items below may be selected. (The range of items is not exclusive and the level of compensation for an item may be varied).

#### Items

- (i) Reimbursement of fares and accommodation expenses for the journey to the new location.
- (ii) Assistance with living expenses for up to three months, but on a decreasing basis for employees who move to the new location but whose dependants are still at the former location.
- (iii) Reimbursement of accommodation expenses, initially for up to seven days at the new location, with further assistance on a subsidy basis for up to a maximum of three months before permanent housing is available at the new location.
- (iv) Reimbursement of land agent's commission and legal fees where the employee sells their house and/or buys another house at the new location.
- (v) A variable grant for employees on moving to the new location up to a maximum of the equivalent of one month's salary.
- (vi) A variable grant for employees after a predetermined number of years at a location, with a maximum grant up to the equivalent of three months' salary, provided the grant does not exceed the equivalent of one month's salary for each year of the qualifying period.
- (vii) Reimbursement of additional actual and reasonable child care

expenses, including travel costs, for one year.

Where the new job is within the same local area and extra travelling costs are involved, actual additional travelling expenses equivalent to travelling by public transport shall be reimbursed for up to 12 months.

Where the new job is within the same local area and the extra travelling time one-way to the new place of work by public transport is more than 30 minutes, transfer expenses as in 2.7.8(e) apply.

Where employees are to be relocated at least 3 months' notice shall be given to employees, provided that in any situation a lesser period of notice may be mutually agreed between the NZEI and the Chief Executive where the circumstances warrant it (and agreement shall not be unreasonably withheld).

#### 2.7.9 Surplus Employees

All affected employees who

- are not placed by reconfirmation; and
- who have not been offered a suitable reassignment; or
- who have declined an offer of reassignment at a different location or at lesser terms and conditions;

are surplus and the following apply:

##### (a) Notification of Surplus

The Chief Executive will notify the NZEI and the surplus employees a minimum of one month prior to the date that the surplus is required to be discharged. When circumstances warrant this date may be varied by agreement between the parties.

At that time the following information shall be made available to the National Office of the NZEI with a copy to the appropriate Regional Office:

- (i) the location(s) of the surplus;
- (ii) the total number of surplus employees; and
- (iii) the positions, names and ages of the surplus employees.

The NZEI will be supplied with additional information on request.

##### (b) Details of Conditions and Options

During this period the Chief Executive and the NZEI will meet to reach agreement on the options which are appropriate to the circumstances and will be available to surplus employees.

The following options may be available:

- Leave Without Pay
- Retraining
- Redeployment/Job Search
- Redundancy Compensation (case by case basis).

How the options may be used, other options which the parties may agree to, and the types and levels of financial assistance, will be negotiated on a case by case basis between the Chief Executive and the NZEI.

(c) Redeployment

The Chief Executive may, following consultation and agreement with the NZEI, ask employees to complete a curriculum vitae seeking redeployment within the Ministry, other Public Service departments or other state sector agencies or organisations, including within the education service. The same provisions will apply as for reassignment. Time off on pay may be made available for job seeking. Assistance will be given for the preparation of curriculum vitae.

2.7.10 Leave Without Pay

There is provision for special leave without pay within a defined period without automatic right of re-engagement (this excludes parental or sick leave). This may include an opportunity for training.

2.7.11 Alternative to Severance for Contributors to Superannuation

As an alternative to the redundancy compensation option, surplus staff who belong to GSF or NPF who are within 10 years of eligibility for National Superannuation and have 10 years total service may have their redundancy compensation paid and may use the payment to make up the actual GSF or NPF annuity payable. Service does not have to be continuous. The use of the payment will be arranged by the employee with the Superannuation Scheme provider, in accordance with the provisions of the superannuation scheme.

This alternative to severance, for contributors to superannuation, may be made available at any time to eligible employees not declared surplus if a surplus employee seeking redeployment replaces them.

2.7.12 Retraining

Retraining is an efficient and worthwhile option for dealing with staffing surpluses. To this end the Chief Executive will, as far as she or he is able:

- (a) Identify particular skill shortages in the Education Service or elsewhere in the state services.
- (b) Assess where there are generally job opportunities in the Public Service and/or in the private sector.

When a staffing surplus is identified the Chief Executive (and the State Services Commission where appropriate) will consider the skills, training, etc of the employees who are surplus and will determine whether there are retraining opportunities for them for work either in the Public Service or the private sector.

If retraining opportunities are identified specific retraining programmes will be designed.

#### 2.7.13 Redundancy Compensation

- (a) Where an employee is not placed in suitable alternative employment prior to the expiry of the notice period, the employee shall be entitled to compensation as follows:
  - (i) One month's notice of termination of employment or pay in lieu; and
  - (ii) For those employees appointed prior to or on 22 December 1992, one month's salary for each year of service, up to a maximum payment of six months' salary; or
  - (iii) For those employees appointed after 22 December 1992, 8% of ordinary pay for the preceding twelve months, plus 2% of ordinary pay for the preceding twelve months for each year of service minus one, up to a maximum of the equivalent of three months' salary at that time.
- (b) Redundancy compensation (excluding notice provisions) shall be payable to redundant employees with at least 12 months' current continuous service.

#### 2.7.14 Continuity of Employment in Restructuring

- (a) For the purpose of this provision, restructuring, in relation to the Ministry's business:
  - (i) means:
    - entering into a contract or arrangement under which the Ministry's business (or part of it) is undertaken for the Ministry by another person; or
    - selling or transferring the Ministry's business (or part of it) to another person; but
  - (ii) to avoid doubt does not include:
    - the termination of a contract or arrangement under which the Ministry carries out work on behalf of another person or organisation.

- (b) Where it is proposed that the Ministry be restructured and, as a result of that restructuring, the work being performed by any affected employees of the Ministry, would be performed by a new employer, then:
- (i) in accordance with the principles outlined in 2.7.1 the Chief Executive will inform the NZEI at the earliest opportunity, and as soon as is practicable will provide the NZEI with copies of the information outlined in b(ii) below;
  - (ii) within a reasonable period prior to the restructuring taking effect the Ministry will notify the new employer of the number of affected employees and, in relation to each affected employee, provide details of:
    - the work currently being performed by those employees; and
    - details of their terms and conditions of employment (including their total remuneration, length of service and any accrued benefits or entitlements).
  - (iii) the Ministry will arrange to meet with the new employer to negotiate:
    - the number and type of positions in respect of which the affected employees may be offered employment with the new employer;
    - the terms and conditions of employment on which the affected employees may be offered employment on those conditions (including whether the affected employees will transfer to the new employer on the same terms and conditions of employment and if those terms and conditions will be included in a collective agreement);
    - the arrangements, if required, for the transfer of any existing superannuation scheme benefits or entitlements and any other accrued benefits and entitlements in relation to those affected employees who may be offered employment by the new employer;
    - the arrangements, if required, for when and how offers of employment are to be made to the affected employees and the mode of acceptance.
  - (iv) the Ministry will also endeavour to arrange a meeting between the new employer and the NZEI as soon as practicable prior to the restructuring taking place;
  - (v) The Chief Executive will keep the NZEI informed regarding negotiations with the new employer in respect of the matters contained in b (iii) above.

The surplus employee provisions (2.7.9 to 2.7.13) of this Agreement will apply to an affected employee who either:

- (a) is not offered employment by the new employer; or
- (b) chooses not to accept an offer of employment from the new employer;

**provided that** any affected employee who declines an offer of employment in an equivalent position with the new employer **shall not be** entitled to redundancy compensation (2.7.13).

An employee who intends to decline an offer of equivalent employment should discuss with the Ministry the alternate options that might be available under the surplus employees provisions prior to formally making that decision.

For the purposes of this clause **employment in an equivalent position** means employment in a position that:

- (a) is substantially the same as the employee’s previous position; and
- (b) is in the same general locality; and
- (c) is on terms and conditions of employment that are no less favourable than those that apply to the employee immediately before the offer of equivalent employment (including any service-related, redundancy and superannuation conditions); and
- (d) is on terms that treat the period of service with the Ministry (and any other period of service recognised by the Ministry as continuous service) as if it were continuous service with the new employer.

## 2.8 Provision of Transport

Employers shall provide employees who are required to travel to carry out their official duties, with appropriate transport. The term appropriate transport in this clause includes use of public transport, employer provided vehicles, taxis, rental cars, and also payment of equivalent fares or motor vehicle allowance in terms of clause 4.3 of this agreement when it is agreed by the employer and employees that the employees shall use their own vehicles.

## 2.9 Compassionate Grant

- 2.9.1 A compassionate grant may be paid by employers to a partner, or if there is no partner, to the next of kin or the estate of an employee who dies while employed by the Ministry. Compassionate grants are calculated as a proportion of the annual rate of salary payable to the employee at the time of death as follows:

Length of Service	Proportion of Annual Salary Rate
20 years or more	one-eighth
10 years but less than 20 years	one-twelfth
Under 10 years	no grant payable

- 2.9.2 The following conditions apply to the payment of the grants:

- (a) No grant is payable if, as a result of death, payments under the

accident compensation legislation to an equivalent or greater extent have been made.

- (b) Service must be continuous except that intervals of up to one year may be bridged and service aggregated, but the intervals do not count as service. If an interval exceeds one year, the qualifying service commences afresh after the interval.
- (c) Allowable service comprises, service in:
  - Specialist Education Services
  - State schools (including kindergartens) in New Zealand
  - New Zealand Government service
  - Teacher training which commenced in 1980 or earlier
  - Active military service
  - Service on the staff of New Zealand universities
  - Service as a teacher on an official government exchange or government sponsored scheme.
- (d) Service not recognised includes:
  - Private school teacher
  - Full-time university study (unless on leave)
  - Overseas teaching service (other than service as a teacher on an official government exchange or sponsored scheme)
  - Teacher training which commenced in 1981 or later.
- (e) For the purpose of calculating the grant, salary means specified annual salary. Temporary allowances are excluded.
- (f) The grant is calculated to the nearest \$1.00

## **2.10 Continuity of Service**

Except as specified elsewhere in this agreement, the Chief Executive or delegated nominee may recognise service with other departments of the Public Service and teaching service as continuous service, provided that the employee joined the Ministry within one month of leaving the service of the other organisation.

## **2.11 Preparation Time**

Employees may be granted up to 10 working days preparation time per annum at the discretion of the Chief Executive or delegated nominee on such conditions as he/she may approve (as may be delegated to the district manager) but shall usually be taken when schools are closed.

## **2.12 Health and Income Protection Insurance**

The Ministry will ensure group health and income protection insurance schemes are available to employees on such conditions as determined by the insurers. In addition, employees who work 50% or more of full-time hours, will have their premiums subsidised by the Ministry at a rate determined by the Chief Executive.

### **2.13 Notice of Termination**

One month's notice of termination is required by either party except that:

- this may be varied by mutual agreement; or
- the Chief Executive may dismiss any employee with a lesser period of notice; or
- without notice in the case of serious misconduct; or
- the provisions of clause 2.7 will apply in restructuring situations.

### **2.14 Flexible Departure Arrangements**

As an alternative to the notice requirements above, flexible arrangements may be agreed to that will lead to the departure of a SE employee. Flexible departure arrangements are available only to employees appointed before 6 November 2003.

There will be a voluntary written agreement between the manager and employee (or agent) which will include:

- measures for the transition;
- review date(s) for the agreement;
- final departure date.

Once the provisions of the agreement have been met, the following payments shall be made as part of the final pay to the employee:

on completion of 10 years and up to 20 years' service	2 months' salary
on completion of 20 years and up to 30 years' service	4 months' salary
on completion of 30 or more years' service	6 months' salary

All service is calculated on the basis of a calendar year and must be continuous service with a satisfactory work record. Continuous service for this provision means current continuous service in the Ministry and/or the state service or parliamentary service. Other service may be considered at the discretion of the employer. Teaching service and service with teaching leave does not count. Any part-time service will be calculated on a pro-rata basis according to the record of service.

### **2.15 Retirement on Medical Grounds**

Where agreement has been reached between the employer and the employee that the employee will leave the Ministry on medical grounds, the employee shall be granted a minimum of two months' salary regardless of the length of service, except that on completion of 20 years or more the additional level of payment will be as set out above.

## **2.16 Death of an Employee**

On the death of an employee and where a departure agreement as per 2.14 or 2.15 exists the Chief Executive or delegated nominee may approve a cash grant in lieu of the exit provision payment to:

- (i) the surviving partner; or
- (ii) dependent children; or
- (iii) the estate of the deceased employee.

The grant is payable where the amount of exit payment that would have been due would result in a more favourable payment than the compassionate grant.

## PART 3 REMUNERATION

### 3.1 Salary Scale

#### 3.1.1

Step	Salary effective from 7 December 2010	Salary effective from 6 September 2011
17	81,979	83,209
16	78,622	79,801
15	76,072	77,213
14	74,606	75,725
13	70,765	71,826
12	68,105	69,127
11	65,446	66,428
10	62,732	63,673
9	60,127	61,029
8	57,522	58,385
7	54,863	55,686
6	52,269	53,053
5	49,719	50,465
4	47,169	47,877
3	44,902	45,576
2	41,970	42,600
1	39,551	40,144

	Salary effective from 7 December 2010	Salary effective from 6 September 2011
<b>Education Specialist Trainee</b>		
3	39,488	40,080
2	36,956	37,510
1	34,425	34,941
<b>Intern Psychologist</b>		
3	42,525	43,163
2	39,994	40,594
1	37,463	38,025

- (a) Subject to (b) below, the maximum step for all occupational groups other than psychologists will be step 14. The maximum step for psychologists will be step 17.
- (b) For Special Education Advisers, Advisers on Deaf Children, Kaitakawaenga and Early Intervention Teachers appointed after 15 September 2005 minimum

qualification criteria apply in order to progress (or be appointed) above step 10. These employees may not normally be appointed or progress beyond step 10 of the scale until they have obtained the additional qualification identified in Appendix C.

- 3.1.2 Where an individual’s current salary is above the maximum rate listed for the individual’s occupational group, her/his salary level is protected. No further increases to the core salary will be paid until the difference between the individual’s salary and the salary rates in this agreement have abated. Increases that apply generally to this agreement will resume at that time as negotiated.

### **3.2 Placement on Initial Appointment**

- 3.2.1 An employee shall, upon initial appointment, be placed on a step in the salary scale in accordance with their relevant academic or professional qualification(s) and recognised previous relevant service. The relevance of qualifications and previous service shall be determined in line with the generic position description for the employee’s role. These are summarised in Appendix C and may be varied by the Ministry in consultation with NZEI.
- 3.2.2 As a guide, an employee who has a relevant academic or professional qualification(s) but who has no recognised previous relevant service should be placed in the salary scale according to the following table:

<b>Relevant Academic or Professional Qualification(s)</b>	<b>Entry Step</b>
A two year (240 credit) or longer Diploma	1
A three year (360 credit) Bachelor Degree	2
A four year (480 credit) Bachelor Degree; or A three-year (360 credit) Bachelor Degree plus a one-year (120 credit) Graduate (level 7) Diploma	3
A Bachelor Degree plus a one-year (120 credit) Post-Graduate (level 8) Diploma	4
A Masters Degree	5
A Masters Degree plus a one-year (120 credit) Post-Graduate (level 8 or higher) Diploma	6

- 3.2.3 Subject to 3.1.1(b), 3.2.5 an employee who, in addition to their relevant academic or professional qualification(s), has recognised previous relevant service shall be credited with a further step in the scale for each completed full-time year of recognized previous relevant service up to step 10. Recognised previous relevant part-time service shall be credited on a pro-rata basis. For the purposes of this provision:

- (a) Recognised previous relevant service shall include service in New Zealand as a trained and registered teacher in a state or state-integrated school or a licensed early childhood centre.
- (b) Recognised previous relevant service may also include other service relevant to the employee's position.
- (c) Less than full credit may be given on appointment for other related, but not directly relevant, experience.

3.2.4 Subject to 3.1.1(b), 3.2.5 an employee may be placed on a higher commencing step in the salary scale than determined under clauses 3.2.1-3.2.3 where the employer considers either or both of the following factors are relevant:

- (a) the ability to recruit, either within the location or generally, the specific skills and/or experience required for the position;
- (b) the requirements of the role are unusual and specific to the position e.g. isolated location, sole representation of the Ministry in the locality, level of work to be undertaken immediately.

3.2.5 Regardless of location, an employee may be placed on any step between the appropriate entry step based on their qualifications and experience and the appropriate maximum step (inclusive) providing that placement above step 10 of the scale, where not already restricted by 3.1.1(b), will require the sign-off of both the appointing Manager's Manager, and a Senior Regional HR Adviser.

3.2.6 Placement on Initial Appointment Education Specialist Trainee and Intern Psychologist

- (a) The minimum entry step for either position is step 1.
- (b) An employee who, in addition to their relevant academic or professional qualification(s), has recognised previous relevant service shall be credited with a further step in the scale for every two completed full-time years of recognised previous relevant service up to step 3.
- (c) Recognised previous relevant part-time service shall be credited on a pro-rata basis. For the purposes of this provision:
  - (i) Recognised previous relevant service shall include service in New Zealand as a trained and registered teacher in a state or state-integrated school or a licensed early childhood centre.
  - (ii) Recognised previous relevant service may also include other service relevant to the employee's position.
  - (iii) Less than full credit may be given on appointment for other related, but not directly relevant, experience.

### **3.3 Progression through the Salary Scale**

- 3.3.1 Employees shall progress to the next available step in the salary scale on the anniversary of their previous increment (or anniversary of appointment for new appointees) subject to their having met their agreed performance expectations, as set through the performance management and development system, at their most recent assessment (and providing that this assessment occurred within the previous 12 months).
- 3.3.2 The Chief Executive or delegated nominee may approve accelerated advancement through steps of the scale.
- 3.3.3 By the date each increment is due, employees will be informed by salary advice of their updated salary.
- 3.3.4 Where progression is to be withheld, the Manager will provide reasons, in writing, to the employee for withholding progression.
- 3.3.5 Progression through the salary scale Education Specialist Trainee and Intern Psychologist.
- (a) Employees shall progress to the next available step in the salary scale either on the anniversary of their previous increment or anniversary of appointment for new appointees. Any movement is subject to the employee having met their agreed performance expectations, as set through the performance management and development system, at their most recent assessment (and providing that this assessment occurred within the previous 12 months).
  - (b) For an EST who has failed to secure a place in a NZ Psychologists Board recognised and approved Educational Psychologist Internship Programme, and for whom there is an offer of a further period of employment as an EST, there will be no increment increase up the EST scale at the next increment date.
  - (c) Where progression is to be withheld, the Manager will provide reasons, in writing, to the employee for withholding progression

### **3.4 Review of Decision to Withhold Progression**

Employees shall have access to the following procedures for review of decisions to withhold salary progression where the appropriate requirements for progression have not been met.

- (a) Where possible, requests for reviews of decisions to withhold salary progression are to be dealt with at a local level, i.e. within the SE District, and in accordance with the review procedures of the appropriate performance management and development system.

- (b) If still not resolved, a salary complaints committee shall be established in the SE region concerned. The committee shall comprise one employer and one union nominee and a chairperson who shall be a district manager from a SE region other than that in which the position is established. The chairperson shall have a casting vote if necessary. The committee will forward its recommendation to the Chief Executive who shall make the final decision. The Chief Executive will write to the complainant advising of the reasons for the decision.

### **3.5 Additional Responsibilities**

3.5.1 Where a SE area requires tasks additional to the core job to be undertaken this will attract additional remuneration.

- (a) Opportunities to undertake additional responsibilities will be advertised internally across the area and will include:
  - (i) the tasks to be undertaken;
  - (ii) indications of the remuneration available (including any changes to other work requirements);
  - (iii) tenure.
- (b) The process of internal appointment/selection for tasks additional to the core job will be stated in a transparent area policy and be consistent with National Guidelines on the appointment to additional responsibilities.

3.5.2 An employee appointed to the position of Pou-arahi-a-takiwa/District Māori Adviser shall be paid an allowance of \$2,000 p.a. in addition to their ordinary salary. Where the employee is employed part-time this allowance shall be pro-rated.

### **3.6 Publication of Remuneration Statistics**

The following statistics will be made available by the Ministry in each financial year.

- (a) A national profile of the remuneration for additional responsibilities paid above the core salary by type of responsibility and by level and type of remuneration.
- (b) The number of increments paid and the number withheld on a region by region basis.

To protect individual privacy the statistics may be suppressed as necessary.

### **3.7 Payment of Salaries**

- 3.7.1 The gross salary for a full pay period is calculated as 10/260.714ths of the annual salary rate. For broken periods the calculation is the number of days due multiplied by the annual salary rate and divided by 260.714.
- 3.7.2 Salaries shall be paid fortnightly by way of direct credit on receipt of the appropriate written authority from the employee. In the event of a direct credit not being able to be actioned, the amount due will be made available to the employee on the normal pay day.
- 3.7.3 The employer shall provide an employee a written advice of the gross pay and deductions made each time the employee's gross pay or any deduction is altered.

### **3.8 Regression**

The salary rate for an individual employee within a particular range for the job will not be reduced by reason of the operation of the salary system.

### **3.9 Additional Qualifications**

- 3.9.1 Where an employee gains an additional relevant qualification (as per their job description) and is below the entry step in the salary scale for that qualification or combination of qualifications in 3.2.2 he or she will, from the date of official notification of the awarding of the additional qualification, move to the minimum entry step. This date shall become their new anniversary date for salary progression purposes.
- 3.9.2 Where a Special Education Adviser, Adviser on Deaf Children, Kaitakawaenga or Early Intervention Teacher who has been held on step 10 under 3.1.1(b) for 12 months' service or more for salary progression purposes subsequently gains the required additional qualification, he or she may progress to the next step in the scale from the date of official notification of the awarding of the additional qualification providing they meet the requirements of 3.3.1 (if applicable). This date shall become their new anniversary date for salary progression purposes.
- 3.9.3 Except as outlined in 3.9.1 and 3.9.2 there shall be no salary effect from an employee gaining an additional qualification.

### **3.10 Higher Duties Allowance**

- 3.10.1 Where an employee is required to temporarily undertake the full duties of a position and the previous incumbent was paid a higher salary than her/him, the District Manager shall approve the payment of a higher duties allowance of 6.5% of her/his current salary or such greater amount as the District Manager may approve provided that the amount paid does not exceed the former incumbent's salary.
- 3.10.2 Where an employee is required to temporarily undertake only some of the duties of the position for which the previous incumbent was paid a higher rate,

the amount of the higher duties allowance shall be determined by the District Manager.

- 3.10.3 The minimum qualifying period is five consecutive working days actually undertaking the higher duties and responsibilities and this criteria must be met on each occasion that the higher duties are performed.
- 3.10.4 When an employee is promoted to a position that she/he is presently undertaking the full duties and responsibilities of, and is in receipt of a higher duties allowance, then the appointment to that position may be backdated to the date that the higher duties were taken up.

### **3.11 Te Reo Māori and Tikanga Māori Assessment**

Where a staff member's skill and knowledge of Te Reo Māori and Tikanga Māori have been assessed by the Ministry and a level of attainment set out in Ministry policy has been reached the dollar amounts set out below will be added to the individual's salary. This will be paid in addition to the appropriate step on the salary scale and will form an integral part of the salary particularly for matters such as superannuation and taxation.

<b>Assessment Level</b>	<b>Remuneration Level</b>
Level 1 (A)	\$3,246
Level 2 (B)	\$2,164
Level 3 (C)	\$1,623
Level 4 (D)	\$1,082

### **3.12 Approved Student Supervision Allowance**

- 3.12.1 A student supervision allowance of \$50.00 per week, or \$10.00 per day for students less than full-time, shall be paid to staff members designated as professional supervisors of students on approved supervision placements with SE.
- 3.12.2 Professional supervisors shall be approved by their District Manager and accredited by the training institution and be supervising a student or students, who are not Ministry employees, on placement with SE.
- 3.12.3 Professional supervisor allowances will only apply:
- to staff supervising students on programmes that lead to a recognised professional qualification that is sought by SE, and
  - where supervision is a requirement of the programme curriculum approved by the providing institution or professional body, and
  - when the supervisor is professionally responsible for the student on placement.
- 3.12.4 The allowance is only payable for the period that the student is being supervised on placement within SE.

3.12.5 Psychologists supervising intern psychologists (who are Ministry employees) receive the applicable time allowance as set out in the Ministry guidelines. They do not receive the Approved Student Supervision Allowance.

## **PART 4      EXPENSES**

### **4.1      Expenses on Official Business**

- 4.1.1 When travelling on official business from the office, worksite or SE district (as appropriate) where the employee is normally based and expenses directly related to carrying out that business are incurred which are not normally incurred, the employee shall be reimbursed the actual and reasonable cost of these expenses. The Chief Executive or delegated nominee may determine what is reasonable.
- 4.1.2 Actual and reasonable expenses could include accommodation, meals, transport/travel and incidental items purchased for use during and to assist carrying out the official business. Additionally, dependent care payments may be made where the employee cannot make alternative arrangements for the care of his/her dependents without incurring extra expenses.
- 4.1.3 Receipts or invoices must be provided for all expenses claimed. The Chief Executive or delegated nominee may approve the reimbursement of expenses without receipt provided that he/she is satisfied that the expenditure was necessary, reasonable and actually incurred.
- 4.1.4 Reimbursement of expenses will also apply when attending an investiture to receive an honour if an overnight stay is unavoidable.

### **4.2      Subscriptions to Professional Associations**

- 4.2.1 Employees shall be reimbursed the cost of a subscription to a professional association under such conditions as the Chief Executive or delegated nominee may approve.
- 4.2.2 Where an employee is required by law to hold an annual practicing certificate, the cost of the certificate will be refunded to the employee provided that:
- (a) it must be a statutory requirement that a current certificate be held for the performance of duties; and
  - (b) the employee must be engaged in duties for which the holding of a certificate is a requirement; and
  - (c) the employee must be a member of the particular occupational class to whom the requirement applies.

### **4.3      Expenses Incurred in the use of Private Vehicles**

- 4.3.1 Where the use of a private motor vehicle for official business has been approved, the reimbursement rates will be based on the current level of motor vehicle costs approved by IRD. These rates are currently 70c per kilometre. These rates will change in accordance with any adjustments announced by IRD.

4.3.2 All employees when using private motor vehicles on official business will do so in accordance with the Ministry's motor vehicle policy. At the discretion of the cost-centre manager, the Ministry will provide full or partial cover for non-recoverable excess to a maximum of \$1,000 without a reduction or loss of no claims rebate to a maximum of \$500.

#### **4.4 Morning, Mid-day and Afternoon Tea**

4.4.1 All employees will receive each day free tea, coffee, milk and sugar (or appropriate alternatives) for morning, mid-day and afternoon breaks. This may be by way of provision of ingredients or reimbursement of the purchase of these ingredients.

4.4.2 Where staff are located in schools and use school ingredients the District Manager and staff member will agree on an appropriate contribution to the school for tea, coffee, milk and sugar to be paid by the Ministry to the school as a first option or reimbursed to the staff member at an agreed amount.

#### **4.5 Transfer and Removal Expenses**

4.5.1 Negotiation and agreement between the employer and employee (or agent) about the exact level of assistance the employer shall pay towards relocation expenses will be completed prior to the confirmation of appointment.

4.5.2 The negotiations should include assistance to and/or from the new location.

## **PART 5      HOLIDAYS AND LEAVE**

### **5.1.1    Service Recognition**

- 5.1.2    The Ministry will recognise prior service from 13 May 2003 with other departments of the Public Service (as specified in the First Schedule of the State Sector Act 1988), and with any Crown entity (excluding District Health Boards and the Education Service as defined in the State Sector Act 1988 (e.g. School Boards of Trustees and Tertiary Education Institutions), for the purpose of calculating continuous service for leave entitlements.
- 5.1.3    Leave for which continuous service is recognised is long service, sick and parental leave.
- 5.1.4    For the purposes of this clause (5.1) where redundancy has been paid out for service after 13 May 2003 continuous service will be deemed to be broken.
- 5.1.5    Continuous service is recognised as a result of the coming into effect of the public service common leave provisions and therefore service prior to 13 May 2003 will not be recognised.

### **5.2      Annual Leave**

- 5.2.1    The term "week" means five working days in each week providing that in the case of part-time employees it means the number of days normally worked.
- 5.2.2    (a)      With the exception of (b) below an employee shall be entitled to five weeks' annual leave each year.
- (b)      Employees previously covered by Part 6 of the SES Field Staff Collective Employment Contract 1 July 1995 to 30 June 1996 who elected to reduce their salary to 0.9 of their previous salary shall be entitled to ten weeks' annual leave each year.
- 5.2.3    An employee may, at the discretion of the Chief Executive or delegated nominee, be permitted to anticipate up to 20 days annual leave entitlement subject to refund on resignation if necessary. This entitlement is pro-rated for part-time employees.
- 5.2.4    The annual leave balance at any one time should as a principle not exceed the annual leave entitlement plus five days added to the annual leave entitlement.
- 5.2.5    An employee on special leave with or without pay for more than 35 consecutive days at any time will not have any annual leave entitlement added to the annual leave balance for the period of leave greater than 35 days.

Special leave with or without pay taken in the following instances will continue to attract annual leave entitlement:

- (a) sick or accident leave;

- (b) war disability leave;
- (c) leave for military training;
- (d) jury service leave;
- (e) study leave where the leave and study is approved by the District Manager as meeting the professional development needs of the Ministry and the individual.

### **5.3 Public Holidays**

5.3.1 Unless the Chief Executive or delegated nominee for reasons of public interest determines otherwise in respect of the Ministry, or of any employee, or of any group of employees, the following days shall be observed as public holidays:

- Christmas Day
- Boxing Day
- New Year's Day
- The day after New Year's Day
- Waitangi Day
- Good Friday
- Easter Monday
- ANZAC Day
- Sovereign's Birthday
- Labour Day
- Anniversary Day (as observed in the locality concerned).

5.3.2 Where an employee is required by the Ministry and agrees to work on a public holiday she or he shall be paid at least the portion of the employee's relevant daily pay that relates to the time actually worked, plus half that rate again. In accordance with the Holidays Act 2003 the employee shall also be entitled to another day's holiday for any part of a public holiday worked.

#### **5.3.3 Special Education Holiday**

The Chief Executive shall prescribe one day each year as a Special Education holiday not being a public holiday, Saturday or a Sunday. This day will usually be the day after Boxing Day.

Provided that in the case of a part-time employee public and Special Education holidays will be granted only where the day concerned is a day normally worked by that employee.

#### **5.3.4 (a) Holidays falling during leave or time off**

Where a public or Special Education holiday falls during a period of annual leave, sick leave on pay or special leave on pay an employee is entitled to that holiday which is not to be debited against such leave. This provision does not apply to a holiday falling during leave after the employee has ceased work prior to leaving the Ministry, unless the employee has worked at any time during the fortnight ending on the day on which the holiday is observed.

- (b) Leave without pay (including military leave without pay)

An employee shall not be entitled to payment for a public or Special Education holiday falling during a period of leave without pay unless the employee has worked at any time during the fortnight ending on the day the holiday is observed.

### 5.3.5 Recreation Leave

Subject in all cases to the Chief Executive's or delegated nominee's convenience, employees after one year's service, may be granted one day's recreation leave on pay each leave year, but an employee leaving the Ministry shall not be paid for this leave if it has not been taken at the time of ceasing work. This leave must be taken within the year in which it is granted, if not taken it will be forfeited.

## 5.4 Sick Leave

### 5.4.1 The Chief Executive shall grant:

- (a) sick leave on pay up to the employee's entitlement as set out below;  
or
- (b) sick leave without pay on production of a medical certificate.

Service	Sick Leave Entitlement
Up to 3 months	7 days on full pay
Over 3 months and up to 6 months	14 days on full pay
Over 6 months and up to 9 months	31 days on full pay
Over 9 months and up to 5 years	46 days on full pay
Over 5 years and up to 10 years	92 days on full pay
Over 10 years and up to 20 years	183 days on full pay
Over 20 years and up to 30 years	275 days on full pay
Over 30 years	365 days on full pay

- (i) Sick leave is to be computed in consecutive days, not working days, but no deduction will be made for absences of less than two hours.
- (ii) The Chief Executive may decide that paid sick leave of any special nature of up to two years shall not be included in the aggregate of sick leave taken, but such leave is to be noted on the employee's leave record. Such leave may cover entering or waiting to enter a recognised tuberculosis institution, war injury, currently epidemic diseases as determined by Health officials, work injury or sickness not compensated by ACC.
- (iii) Where absence on sick leave, whether with or without pay extends beyond 5 consecutive days, employees must produce to the employer a medical certificate stating the probable period of absence.
- (iv) Where an employee absent on sick leave is suspected of being absent from duty without sufficient cause, the employee may be directed to

submit to medical examination by a registered medical practitioner. The Chief Executive may issue the direction for the examination, nominate the medical officer and, if warranted, approve a refund of expenses incurred by an employee in complying with this provision.

- (v) When sickness occurs during annual leave the Chief Executive may permit the period of sickness to be debited against an employee's sick leave entitlement except where the sickness occurs during leave following termination of employment. Notwithstanding this, where annual leave has been approved, and before taking that annual leave an employee becomes sick or injured, or whose spouse or dependent becomes sick or injured, the employer must allow the employee to take the period of sickness or injury as sick leave.
- (vi) The Chief Executive may permit employees to anticipate their next sick leave entitlement in accordance with the following table; or on any other basis that he/she considers appropriate.

Up to 5 years' service	At 4 years, 9 months' service
Over 5 years and up to 10	At 9 years, 6 months' service
Over 10 years and up to 20	At 19 years' service
Over 20 and up to 30	At 28 years' service

Provided that the necessary adjustments will be made to final pay should an employee resign before the next entitlement falls due.

#### 5.4.2 Sick Leave for Part-time Employees

For the purposes of crediting and debiting sick leave the following will apply:

- (a) sick leave will be credited at the same rate as applies for permanent employees.
- (b) irrespective of the hours worked on a particular day, each day of absence which would normally be worked, will be debited as one full day of sick leave.
- (c) where an employee to whom this clause applies is absent on sick leave for two or more days and a non-work day(s) intervenes no deduction will be made for that non-work day(s).

### 5.5 Leave for Family Reasons

5.5.1 An employee may be granted leave for family reasons subject to meeting the requirements as provided for in clauses 5.4.2 - 5.4.3 below. Approval will not be unreasonably withheld. For the purposes of leave for family reasons, the term "near relative" and "near relative-in-law" mean the employee's:

Grandparents	Father-in-law	Sons-in-law
Grandchildren	Mother-in-law	Daughters-in-law
Kaumata	Mokopuna	Tamaiti whangai

Matua whangai
---------------

NOTE: Kaumatua in the context of this provision means respected elder of the kin group or one who has close links with the kin group.

The terms do not exist beyond these degrees of relationship.

#### 5.5.2 Serious illness

- (a) An employee may be granted leave with pay on account of serious accident or a crisis in a severe illness of a:
  - (i) Spouse, child, parent, partner, brother or sister 2 days
  - (ii) a near relative-in-law or a member of the employee's household 1 day
- (b) The maximum period of leave on full pay that may be granted for this purpose, including travelling time is seven days.

#### 5.5.3 Leave for sickness in the home

- (a) Employees shall be granted leave on pay as a charge against their sick leave entitlement when the employee must be absent from work where their spouse or de-facto partner is sick or injured or a person who through sickness or injury becomes dependent on the employee for care.
- (b) Approval is not to be given for absences during or in connection with the birth of an employee's child. Such situations should be covered by leave without pay, parental/maternity/paternity leave, annual leave or anticipated annual leave.
- (c) The production of a medical certificate or other evidence of illness may be required.

### 5.6 Special Leave

- 5.6.1 From time to time at the Chief Executive's or delegated nominee's discretion, an employee may be granted special leave with or without pay. If the leave without pay extends beyond three months, placement on return is conditional on a suitable vacancy, level of responsibility and location cannot be guaranteed. An employee who cannot be placed in employment on return will be given three months notice in writing that the employment is to be terminated. Leave without pay up to 15 months interrupts but does not break service.
- 5.6.2 Factors that will be taken into account when considering special leave include the operational length of service and in the case of special sick leave, previous record.
- 5.6.3 The following are examples of special leave which may be granted with or without pay.

- (a) Jury Service and Witness Leave
- (i) Jury Service - An employee may be granted paid leave for jury service. Expenses may be retained by the employee but all juror's fees are to be paid to the Ministry unless an employee elects to take annual leave or leave without pay in which case the fees may be retained.
- (ii) Witness Leave -
- Where an employee is called as witness in a private capacity for a criminal or traffic case up to three days' paid leave may be granted. The employee is to recover fees and expenses from the party calling the witness, and repay the fees to the Ministry.
  - Where an employee is called as a witness in a private capacity for other than a criminal or traffic case, annual leave or leave without pay may be granted. The employee is to pay any expenses incurred and is to retain such fees and expenses as may be awarded by the Court.
- (b) The Chief Executive or delegated nominee shall approve up to six days' paid leave in any 12 month period for employees attending meetings of boards, councils and committees providing that:
- (i) the appointment is by Ministerial appointment;
  - (ii) there are no difficulties involved in releasing the employee from duties;
  - (iii) there is no conflict of interest;
  - (iv) any remuneration received for the period that paid leave is granted should be refunded to the Ministry.
- (c) Leave for civil defence, search and rescue operations and fire fighting - for training and during an emergency with written evidence from the appropriate responsible authority.
- (d) First aid training - where required by the Ministry to attend training paid leave, or time in lieu where the course is in the weekend and course fees shall be paid.
- (e) Military training under the Volunteers Employment Protection Act. An additional 12 weeks paid leave is available for initial training and thereafter up to 4 weeks leave per year. An employee will refund the lesser amount of either salary or military pay. Additional leave without pay of up to twelve months will be made available to employees undertaking peacekeeping duties.
- (f) Outward Bound Courses.
- (g) Study leave for pre-exam study, sitting exams, travel to exams,

attendance at courses. The Chief Executive or delegated nominee in consultation with the employee in determining the support for study, will take into account:

- The time commitment required and the workload of the employee
- Programme requirements such as attendance at lectures or workshops, residential modules, on-the-job or practical experience, examinations and assessments
- Additional support available such as use of work facilities and technology
- The impact of the leave on the work of the Ministry and on the workload of the employee and others
- Affordability of providing the support to the employee.

NOTE: Leave without pay may also be an option in some circumstances.

## **5.7 Bereavement/Tangihanga Leave**

- 5.7.1 An employer shall approve special bereavement/tangihanga leave on pay for an employee to discharge any obligations and/or to pay respects to a deceased person with whom the employee has had a close association. Such obligations may exist because of blood or family ties or because of particular cultural requirements such as attendance at all or part of a tangihanga or its equivalent.
- 5.7.2 If a bereavement occurs while an employee is on annual leave, this leave will be interrupted and bereavement leave granted in terms of clause 5.6.1. If a bereavement occurs while an employee is absent on sick leave on pay, or other special leave on pay, such leave may be interrupted and bereavement leave granted in terms of clause 5.6.1. This provision will not apply if the employee is on leave without pay.
- 5.7.3 In granting time off, therefore, and for how long, the employer must take the following into account:
- (a) The closeness of the association between the employee and the deceased (note: this association need not be a blood relationship).
  - (b) Whether the employee has to take significant responsibility for any or all of the arrangements to do with the ceremonies resulting from the death.
  - (c) The amount of time needed to discharge properly any responsibilities or obligations.
  - (d) Reasonable travelling time should be allowed, but for cases involving overseas travel that may not be the full period of travel.
  - (e) A decision must be made as quickly as possible so that the employee is given the maximum time possible to make any arrangements necessary. In most cases the necessary approval will be given immediately, but may be given retrospectively where necessary.

- (f) If paid special leave is not appropriate then annual leave or leave without pay should be granted but as a last resort.
- (g) When an unveiling ceremony occurs on a working day, leave on pay shall be granted.
- (h) Notwithstanding the above:
  - (i) The minimum entitlement prescribed in the Holidays Act 2003 for a bereavement on the death of the employee's spouse, parent, child, brother or sister, grandparent, grandchild or spouse's parent is three days' paid leave.
  - (ii) The minimum entitlement prescribed in the Holidays Act 2003 for a bereavement on the death of any other person where obligations such as those in 5.6.1 exist is one day.

## **5.8 Parental Leave (Parental leave is leave without pay)**

- 5.8.1 (a) An employee, while employed by the Chief Executive, is entitled to parental leave in the following circumstances:
- (i) in respect of every child born to them or their partner;
  - (ii) in respect of every child up to and including five years of age, adopted by them or their partner.
- (b) Leave up to 52 weeks may be granted to employees with at least one year's service. For those with less than one year's service, parental leave up to 26 weeks may be granted. The maximum period of parental leave may be taken by either the employee exclusively or it may be shared between the employee and her/his partner either concurrently or consecutively. This applies whether or not only one or both partners are employed by the Ministry.
- (c) Where two or more children are born or adopted at the same time, then for the purposes of these provisions the employee's entitlement shall be the same as if only one child had been born or adopted.
- (d) Employees intending to take parental leave are required to give at least one month's notice in writing and the application is to be accompanied by a certificate signed by a registered medical practitioner certifying the expected date of delivery.
- Provided that, if it is warranted on medical or other grounds as are appropriate a shorter period of notice may be approved; and
- Provided that, in the case of adoption an employee may give a lesser period of notice.
- (e) An employee absent on parental leave is required to give at least one month's notice of their intention to return to duty.

Provided that on occasions a lesser period may be agreed upon by the Chief Executive or delegated nominee, where it is appropriate.

### 5.8.2 Job Protection

- (a) An employee returning from parental leave is entitled to resume work in the same position or in a similar position to the one she/he occupied at the time of commencing parental leave, or to some other mutually agreed position.

A similar position means a position:

- at the equivalent salary and level; and
- in the same location or other location within reasonable commuting distance; and
- involving responsibilities broadly comparable to those exercised in the previous position.

- (b) When an employee goes on parental leave the Ministry should as first preference:

- hold the employee's position open (Note: this includes filling it temporarily) but,
- if the Chief Executive or delegated nominee needs to fill the position permanently, at the time the employee indicates their intention to return to duty, the Chief Executive or delegated nominee shall offer one of the following (in order of priority):

- (i) the same position if it is vacant at that time or a similar position to the one they occupied before commencing parental leave; or
- (ii) an extension of parental leave up to 12 months until the employee's previous position or a similar position becomes available; or
- (iii) an offer to the employee of a similar position in another location if one is available with transfer assistance applying. If the offer is refused the employee continues on extended parental leave as provided for in clause 5.7.1 for up to 12 months; or
- (iv) an offer of employment in a different position in the same location (a position of a lower grading or one involving different duties i.e. not a similar position as defined above); if the appointment is not acceptable to the employee the employee continues on extended parental leave as provided for in paragraph (ii) above for up to 12 months; or
- (v) where extended parental leave as provided in paragraph (ii) above expires and no position is available for the employee,

the employee continues on leave without pay and the Chief Executive or delegated nominee may terminate employment with three months' notice providing that an employee whose services are terminated under this provision shall be entitled to be paid the ex gratia payment equivalent to 30 working days leave that she/he could have earned if she/he had the opportunity to return to work after parental leave.

#### 5.8.3 In addition to Parental Leave

- (a) A woman employee who is pregnant is entitled before taking parental leave to take a total of up to 10 days special leave without pay for reasons connected with her pregnancy.
- (b) A male employee may take a continuous 14 day period of leave without pay as leave. Leave may be taken any time during the six weeks span beginning 21 days before the expected date of delivery or adoption and ending 21 days after the actual date of delivery or adoption.

#### 5.8.4 Surplus Staffing

- (a) When a staffing surplus is declared involving a position that is usually occupied by an employee who is on parental leave, then the same surplus employee provisions that would apply to other employees, who are covered by this agreement, and who are part of the same surplus shall apply.
- (b) Any employee on parental leave must be notified if her/his position is to be disestablished or reviewed as a result of a staffing surplus.

#### 5.8.5 Ex gratia payment

- (a) When an employee, who is entitled to parental leave of up to 12 months returns to duty before or at the expiration of the leave and completes a further six month's service, they qualify for a payment equivalent to 30 working days' leave on pay, i.e. at the rate applying for the 30 working days immediately following their ceasing duty.

Provided that, if both partners are employed in the Ministry and are eligible for the payment, then they are entitled to one and only one payment, and they may choose (after they have qualified) who will receive it.

Any adjustments to the salary scale that are backdated into the period covered will apply.

- (b) An employee who is absent on parental leave for less than six weeks (30 working days) will receive that proportion of the payment that his/her absence represents in working days.

- (c) Any payment is to be based on the percentage rate of employment prior to absence on parental leave. However, a woman who works less than full normal hours for a short period only, prior to her confinement, may have her case for full payment considered by the Chief Executive or delegated nominee.
- (d) An employee shall not be eligible for a parental leave payment if her/his partner has received a payment from another State Sector employer.

However, an employee will receive a payment if eligible regardless of any payment that may have been made to her/his partner by a private sector employer.

## **5.9 Long Service Leave**

- 5.9.1 Effective from 1 July 2009, employees shall be entitled to two whole weeks long service leave after ten years continuous service. Thereafter, employees shall be entitled to one whole week after every five years continuous service.
- 5.9.1 Continuous service, as specified in 5.1 is recognised for the calculation of long service leave entitlement.
- 5.9.2 Long service leave must be taken before the next entitlement falls due or be forfeited. Long service leave will not accumulate from one qualifying period to another.
- 5.9.3 Long service leave will be paid at ordinary rates of pay.

## **5.10 Employment Relations Education Leave**

- 5.10.1 Sections 73 and 74 of the Employment Relations Act 2000 set out the minimum union entitlement to the allocation of employment relations education leave (EREL).
- 5.10.2 The Act provides for an amount of EREL based on union membership. The parties may agree any additional days over and above the minimum.

## **PART 6      UNION MATTERS**

### **6.1      Union Access**

Representatives of NZEI shall be entitled to enter the premises of the Ministry at all reasonable times for purposes related to the employment of members or for purposes related to the union's business or both. Such access shall be exercised at reasonable times and in a reasonable way. Representatives shall comply with existing health and safety and security procedures.

### **6.2      Union Deductions**

- 6.2.1 The employer, when requested in writing by the secretary of the union, shall, within one month after the receipt of such request supply to the union a list of the names of all employees coming within the scope of this agreement when in their employ (but such request shall not be made to the employer at intervals shorter than six months).
- 6.2.2 In accordance with authorities signed by individual employees the employer shall arrange for the deduction of union subscriptions for all union members covered by this agreement except in cases agreed to between the employer and the union.
- 6.2.3 The manner of deduction and remittance shall be determined by agreement with the national secretary of the union.
- 6.2.4 The employer shall on request undertake to provide each employee at the time of appointment with an application form for membership of the union.
- 6.2.5 Except as may be otherwise agreed, the commission payable by the Institute for this service shall not exceed 2.5 percent of the aggregate sum of the amount deducted.

### **6.3      Leave for Union Meetings**

- 6.3.1 Providing the employee would otherwise be working for the employer during the meeting, the employer shall allow each member of the Institute a paid absence of up to two hours for any one meeting the Institute may call in any one year (January to December inclusive), or an aggregate paid absence of up to four hours for any two or more meetings the Institute may call in that same year provided that the paid absence in respect of any such meeting shall not exceed two hours.
- 6.3.2 In respect of every such meeting called the Institute will consult with the employer about the date(s), time(s) and place(s) of such meeting(s) before giving notice at least 14 days prior to the date of such meeting(s).
- 6.3.3 Institute members shall resume duty as soon as practicable after the meeting but the employer shall not be obliged to pay any Institute member for a period greater than two hours in respect of any such meeting.

6.3.4 Only members of the Institute who actually attend a meeting called in accordance with this clause shall be entitled to pay in respect of that meeting and to that end the Institute shall supply the employer with a list of members who attended and shall also advise the time of finishing the meeting.

## **PART 7      EMPLOYMENT RELATIONSHIP PROBLEMS**

### **What is an employment relationship problem?**

It is a problem between employee and employer. For example, it might be a personal grievance or a dispute about a provision in an employment agreement.

### **Resolving an employment relationship problem**

The employee and employer should first make a reasonable effort to discuss the problem and settle it by mutual agreement. (If it's a personal grievance, it **must** first be raised with the employer and **within 90 days** – Personal Grievances are explained further below).

An employee (or employer) has the right to be represented at any stage.

When a problem arises, union members should contact their local NZEI Te Riu Roa field officer.

### **Personal Grievances**

A personal grievance is a particular type of employment relationship problem that normally must be raised with the employer within 90 days of the grievance arising.

An employee may have a personal grievance where:

- They have been dismissed without good reason, or the dismissal was not carried out properly.
- They have been treated unfairly.
- Their employment or a condition of their employment has been affected to their disadvantage by an unjustified action of their employer.
- They have experienced sexual or racial harassment, or have been discriminated against because of their involvement in a union or other employee organisation, or have suffered duress over membership or non-membership of a union or other employee organisation.
- They have been discriminated against in terms of the prohibited grounds of discrimination under the Human Rights Act 1993.

**NOTE:** The full meaning of the terms *personal grievance*, *discrimination*, *sexual harassment*, *racial harassment*, and *duress*, shall be the meaning given by sections 103 to 110 inclusive of the Employment Relations Act 2000 only. For ease of access these are attached at the end of this agreement as Appendix B.

As with other employment relationship problems, the parties should always try to resolve a personal grievance through discussion.

Either party can refer a personal grievance to the Employment Relations Service of the Department of Labour for mediation assistance, or to the Employment Relations Authority.

If the problem relates to a type of discrimination that can be the subject of a complaint that the Human Rights Commission under the Human Rights Act 1993, the person can either take a personal grievance, or complain to the Human Rights Commission, but not both. If in doubt, advice should be sought before deciding.

### **Services Available**

To help resolve employment relationship problems, the Department of Labour provides:

- ***An information service***

This is free. It is available by contacting the Department of Labour or by phoning toll free 0800 20 90 20. The Department's Employment Relations Service internet address is [www.ers.dol.govt.nz](http://www.ers.dol.govt.nz) and can be contacted by e-mail at [workplaceinfo@dol.govt.nz](mailto:workplaceinfo@dol.govt.nz).

- ***Mediation Service***

The Mediation Service is a free and independent service available through the Department of Labour.

The service helps to resolve employment relationship problems and generally to promote the smooth conduct of employment relationships.

Mediation is a mutual problem solving process, with the aim of reaching an agreement, assisted by an independent third party.

If the parties can't reach a settlement they can ask the mediator, in writing, to make a final and binding decision.

A settlement reached through mediation and signed by the mediator at the request of the parties is final, binding and enforceable. Neither party can then take the matter any further and, either party can be made to comply with the agreed settlement by court order.

If the problem is unresolved through mediation either party may apply to have the matter dealt with by Employment Relations Authority.

- ***The Employment Relations Authority***

This Authority is an investigative body that operates in an informal way. It looks into the facts and makes a decision on the merits of the case and not on the legal technicalities.

Either an employer or an employee can refer an unresolved employment relationship problem to the Authority by filing the appropriate forms.

The Authority may call evidence, hold investigative meetings, or interview anyone involved. It can direct the parties to try mediation. If mediation is unsuitable or has not resolved the problem, the Authority will make a decision that is binding on all parties. Any party can contest the Authority's decision through the Employment Court.

NOTE: - all employment relationship problems, including personal grievances and any disputes about the interpretation or application of this agreement, must be resolved under Parts 9 and 10 of the Employment Relations Act 2000.

## **PART 8      VARIATION**

### **8.0      Variation**

The parties agree that this agreement may be varied at any time by written agreement between NZEI Te Riu Roa and the Chief Executive.

**PART 9      SIGNATORIES**

Signatories to the Agreement

Dated at Wellington this    day of March 2011

---

Karen Sewell  
For Ministry of Education

---

Michelle Maguren  
For the New Zealand Educational Institute

## **APPENDIX A**

### **Applicable Legislation**

The provisions of the following Acts (or any amendment or Act passed in substitution) have a bearing on the employment of all employees.

Fees and Travelling Allowances Act 1951  
Education Act 1989  
Employment Relations Act 2000  
Government Superannuation Fund Act 1956  
Health and Safety in Employment Act 1992  
Health Practitioners Competence Assurance Act 2003  
Holidays Act 2003  
Human Rights Act 1993  
Injury Prevention, Rehabilitation and Compensation Act 2001  
Parental Leave and Employment Protection Act 1987  
Privacy Act 1993  
State Sector Act 1988  
Volunteers Employment Protection Act 1973  
Wages Protection Act 1983

## **APPENDIX B**

### **Employment Relations Act 2000, sections 103 - 110**

#### **103 PERSONAL GRIEVANCE--**

- (1) For the purposes of this Act, "personal grievance" means any grievance that an employee may have against the employee's employer or former employer because of a claim--
- (a) that the employee has been unjustifiably dismissed; or
  - (b) that the employee's employment, or 1 or more conditions of the employee's employment (including any condition that survives termination of the employment), is or are or was (during employment that has since been terminated) affected to the employee's disadvantage by some unjustifiable action by the employer; or
  - (c) that the employee has been discriminated against in the employee's employment; or
  - (d) that the employee has been sexually harassed in the employee's employment; or
  - (e) that the employee has been racially harassed in the employee's employment; or
  - (f) that the employee has been subject to duress in the employee's employment in relation to membership or non-membership of a union or employees organisation.
- (2) For the purposes of this Part, a "representative", in relation to an employer and in relation to an alleged personal grievance, means a person--
- (a) who is employed by that employer; and
  - (b) who either--
    - (i) has authority over the employee alleging the grievance; or
    - (ii) is in a position of authority over other employees in the workplace of the employee alleging the grievance.
- (3) In subsection (1)(b), unjustifiable action by the employer does not include an action deriving solely from the interpretation, application, or operation, or disputed interpretation, application, or operation, of any provision of any employment agreement.

#### **103A.TEST OF JUSTIFICATION--**

For the purposes of section 103(1)(a) and (b), the question of whether a dismissal or an action was justifiable must be determined, on an objective basis, by considering whether the employer's actions, and how the employer acted, were what a fair and reasonable employer would have done in all the circumstances at the time the dismissal or action occurred.

**104 DISCRIMINATION--**

- (1) For the purposes of section 103(1)(c), an employee is discriminated against in that employee's employment if the employee's employer or a representative of that employer, by reason directly or indirectly of any of the prohibited grounds of discrimination specified in section 105, or by reason directly or indirectly of that employee's refusal to do work under section 28A of the Health and Safety in Employment Act 1992, or involvement in the activities of a union in terms of section 107,--
- (a) refuses or omits to offer or afford to that employee the same terms of employment, conditions of work, fringe benefits, or opportunities for training, promotion, and transfer as are made available for other employees of the same or substantially similar qualifications, experience, or skills employed in the same or substantially similar circumstances; or
  - (b) dismisses that employee or subjects that employee to any detriment, in circumstances in which other employees employed by that employer on work of that description are not or would not be dismissed or subjected to such detriment; or
  - (c) retires that employee, or requires or causes that employee to retire or resign.
- (2) For the purposes of this section, "detriment" includes anything that has a detrimental effect on the employee's employment, job performance, or job satisfaction.
- (3) This section is subject to the exceptions set out in section 106.

**105 PROHIBITED GROUNDS OF DISCRIMINATION FOR PURPOSES OF SECTION 104--**

- (1) The prohibited grounds of discrimination referred to in section 104 are the prohibited grounds of discrimination set out in section 21(1) of the Human Rights Act 1993, namely--
- (a) sex:
  - (b) marital status:
  - (c) religious belief:
  - (d) ethical belief:
  - (e) colour:
  - (f) race:
  - (g) ethnic or national origins:
  - (h) disability:
  - (i) age:
  - (j) political opinion:
  - (k) employment status:
  - (l) family status:
  - (m) sexual orientation.
- (2) The items listed in subsection (1) have the meanings (if any) given to them by section 21(1) of the Human Rights Act 1993.

**106****EXCEPTIONS IN RELATION TO DISCRIMINATION--**

- (1) Section 104 must be read subject to the following provisions of the Human Rights Act 1993 dealing with exceptions in relation to employment matters:
- (a) section 24 (which provides for an exception in relation to crews of ships and aircraft):
  - (b) section 25 (which provides for an exception in relation to work involving national security):
  - (c) section 26 (which provides for an exception in relation to work performed outside New Zealand):
  - (d) section 27 (which provides for exceptions in relation to authenticity and privacy):
  - (e) section 28 (which provides for exceptions for purposes of religion):
  - (f) section 29 (which provides for exceptions in relation to disability):
  - (g) section 30 (which provides for exceptions in relation to age):
  - (h) section 31 (which provides for an exception in relation to employment of a political nature):
  - (i) section 32 (which provides for an exception in relation to family status):
  - (j) section 33 (which relates to the Armed Forces):
  - (k) section 34 (which relates to regular forces and Police):
  - (l) section 35 (which provides a general qualification on exceptions).
  - (m) section 70 (which relates to superannuation schemes).
- (2) For the purposes of subsection (1), sections 24 to 35 of the Human Rights Act 1993 must be read as if they referred to section 104 of this Act, rather than to section 22 of that Act. In particular,--
- (a) references in sections 24 to 29, 31, 32, and 33 of that Act to section 22 of that Act must be read as if they were references to section 104(1) of this Act; and
  - (b) references in section 30 or section 34 of that Act--
    - (i) to section 22(1)(a) or 22(1)(b) of that Act must be read as if they were references to section 104(1)(a) of this Act; and
    - (ii) to section 22(1)(c) of that Act must be read as if they were references to section 104(1)(b) of this Act; and
    - (iii) to section 22(1)(d) of that Act must be read as if they were references to section 104(1)(c) of this Act.
- (3) Nothing in section 104 includes as discrimination--
- (a) anything done or omitted for any of the reasons set out in paragraph (a) or paragraph (b) of section 73(1) of the Human Rights Act 1993 (which relate to measures to ensure equality); or
  - (b) preferential treatment granted by reason of any of the reasons set out in paragraph (a) or paragraph (b) of section 74 of the Human Rights Act 1993 (which relate to pregnancy, childbirth, or family

responsibilities); or

- (c) retiring an employee or requiring or causing an employee to retire at a particular age that has effect by virtue of section 149(2) of the Human Rights Act 1993 (which is a savings provision in relation to retirement ages specified in certain employment contracts).

**107 DEFINITION OF INVOLVEMENT IN ACTIVITIES OF UNION FOR PURPOSES OF SECTION 104--**

For the purposes of section 104, "involvement in the activities of a union" means that, within 12 months before the action complained of, the employee--

- (a) was an officer of a union or part of a union, or was a member of the committee of management of a union or part of a union, or was otherwise an official or representative of a union or part of a union; or
- (b) had acted as a negotiator or representative of employees in collective bargaining; or
- (c) had participated in a strike lawfully; or
- (d) was involved in the formation or the proposed formation of a union; or
- (e) had made or caused to be made a claim for some benefit of an employment agreement either for that employee or any other employee, or had supported any such claim, whether by giving evidence or otherwise; or
- (f) had submitted another personal grievance to that employee's employer; or
- (g) had been allocated, had applied to take, or had taken any employment relations education leave under this Act; or
- (h) was a delegate of other employees in dealing with the employer on matters relating to the employment of those employees.

- (2) An employee who is representing employees under the Health and Safety in Employment Act 1992, whether as a health and safety representative (as the term is defined in that Act) or otherwise, is to be treated as if he or she were a delegate of other employees for the purposes of subsection (1)(g).

**108 SEXUAL HARASSMENT--**

- (1) For the purposes of sections 103(1)(d) and 123(d), an employee is sexually harassed in that employee's employment if that employee's employer or a representative of that employer--

- (a) directly or indirectly makes a request of that employee for sexual intercourse, sexual contact, or other form of sexual activity that contains--
  - (i) an implied or overt promise of preferential treatment in that employee's employment; or
  - (ii) an implied or overt threat of detrimental treatment in that employee's employment; or
  - (iii) an implied or overt threat about the present or future

employment status of that employee; or

- (b) by--
- (i) the use of language (whether written or spoken) of a sexual nature; or
  - (ii) the use of visual material of a sexual nature; or
  - (iii) physical behaviour of a sexual nature,--

directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee (whether or not that is conveyed to the employer or representative) and that, either by its nature or through repetition, has a detrimental effect on that employee's employment, job performance, or job satisfaction.

- (2) For the purposes of sections 103(1)(d) and 123(d), an employee is also sexually harassed in that employee's employment (whether by a co-employee or by a client or customer of the employer), if the circumstances described in section 117 have occurred.

**109 RACIAL HARASSMENT--**

For the purposes of sections 103(1)(e) and 123(d), an employee is racially harassed in the employee's employment if the employee's employer or a representative of that employer uses language (whether written or spoken), or visual material, or physical behaviour that directly or indirectly--

- (a) expresses hostility against, or brings into contempt or ridicule, the employee on the ground of the race, colour, or ethnic or national origins of the employee; and
- (b) is hurtful or offensive to the employee (whether or not that is conveyed to the employer or representative); and
- (c) has, either by its nature or through repetition, a detrimental effect on the employee's employment, job performance, or job satisfaction.

**110 DURESS--**

- (1) For the purposes of section 103(1)(f), an employee is subject to duress in that employee's employment in relation to membership or non-membership of a union or employees organisation if that employee's employer or a representative of that employer directly or indirectly--

- (a) makes membership of a union or employees organisation or of a particular union or employees organisation a condition to be fulfilled if that employee wishes to retain that employee's employment; or
- (b) makes non-membership of a union or employees organisation or of a particular union or employees organisation a condition to be fulfilled if that employee wishes to retain that employee's employment; or
- (c) exerts undue influence on that employee, or offers, or threatens to withhold or does withhold, any incentive or advantage to or from that employee, or threatens to or does impose any disadvantage on that employee, with intent to induce that employee

- (i) to become or remain a member of a union or employees organisation or a particular union or employees organisation; or
- (ii) to cease to be a member of a union or employees organisation or a particular union or employees organisation; or
- (iii) not to become a member of a union or employees organisation or a particular union or employees organisation; or
- (iv) in the case of an employee who is authorised to act on behalf of employees, not to act on their behalf or to cease to act on their behalf; or
- (v) on account of the fact that the employee is, or, as the case may be, is not, a member of a union or employees organisation or of a particular union or employees organisation, to resign from or leave any employment; or
- (vi) to participate in the formation of a union or employees organisation; or
- (vii) not to participate in the formation of a union or employees organisation.

(2) In this section and in section 103(1)(f), "employees organisation" means any group, society, association, or other collection of employees other than a union, however described and whether incorporated or not, that exists in whole or in part to further the employment interests of the employees belonging to it.

## APPENDIX C

### RELEVANT QUALIFICATIONS AND PREVIOUS RELEVANT SERVICE REQUIREMENTS

- The table below outlines the relevant academic or professional qualification(s) and recognised previous relevant service required for defined occupational groups under coverage of this agreement. The table includes the minimum entry steps for each occupational group based on these requirements.

<b>Occupational group</b>	<b>Relevant academic and/or professional qualification(s)</b>	<b>Minimum previous relevant service</b>	<b>Effective minimum entry step</b>
Psychologist	Masters degree in psychology (5 years) <b>and</b> practicum or internship involving 1500 hours of supervised practice (1 year).	Practicum or internship	6
Special Education Adviser	Bachelor of Teaching (3 years) <b>and</b> (Post) graduate diploma in special education. (1 year)	3 years' teaching experience	6
Special Education Adviser	Bachelor of Teaching (3 years)	3 years' teaching experience	5
Speech Language Therapist	Bachelors degree in speech language therapy (4 years) <b>or</b> Master of Speech Language Therapy (Prac) (5 years)	No prior experience required.	3

Occupational group	Relevant academic and/or professional qualification(s)	Minimum previous relevant service	Effective minimum entry step
Adviser on Deaf Children	Bachelor of Teaching (3 years);  (post) graduate diploma (1 year) necessary to obtain employment as a teacher of the deaf;  <b>and</b>  Master in Special Education (Sensory Disability) as prescribed for AODCs by MoE. (1 year)	4 years' teaching experience in total – including 2 years as a Teacher of the deaf	8
	Bachelor of Teaching (3 years) <b>and</b> (post) graduate diploma (1 year) necessary to obtain employment as a teacher of the deaf.	4 years' teaching experience in total – including 2 years as a Teacher of the deaf	7
Kaitakawaenga	He Tohu Matauranga Māori (MoE qual) <b>or</b> SE Te Reo Attestation Level 3  <b>and</b>  A minimum relevant diploma qualification (min 2 years' study)	3 years' teaching Te Reo Māori or 3 years' working in the community in a Māori development context.	4
Early Intervention Teacher	Bachelor of Teaching: <i>ECE</i> (3 years)  <b>and</b>  (Post) graduate diploma in early intervention recognised by MoE.	3 years' teaching experience as a qualified early childhood teacher.	6
	Bachelor of Teaching: <i>ECE</i> (3 years)	3 years' teaching experience as a qualified early childhood teacher.	5

<b>Occupational group</b>	<b>Relevant academic and/or professional qualification(s)</b>	<b>Minimum previous relevant service</b>	<b>Effective minimum entry step</b>
Occupational Therapist	Bachelors degree in occupational therapy (3 years).	No prior experience required.	3
Physiotherapist	Bachelors degree in physiotherapy (4 years).	No prior experience required	3

- 1.1 For the purposes of the above, the Ministry will recognise as equivalent to the required minimum relevant academic or professional qualifications those qualifications that the appropriate professional body (where applicable) deems equivalent for registration purposes. This will include recognition of professional registration gained through experience, supervised practice, course work not leading to a recognised qualification, or a combination thereof.
2. The following table outlines the additional qualifications or criteria required by Special Education Advisers, Advisers on Deaf Children, Kaitakawaenga and Early Intervention Teachers in order to progress (or be appointed) above step 10:

<b>Occupational group</b>	<b>Additional academic or professional qualification(s) for progression or appointment above step 10</b>
Special Education Adviser	(Post) graduate diploma in special education. (1 year)
Adviser on Deaf Children	Master in Special Education (Sensory Disability) as prescribed for AODCs by MoE. (1 year)
Kaitakawaenga	SE Te Reo Attestation Level 2
Early Intervention Teacher	(Post) graduate diploma in early intervention recognised by MoE.

- 2.1 The Ministry may recognise other qualifications or experience as equivalent to these requirements, including qualifications or experience that the appropriate professional registration board deems equivalent for registration purposes.

### **Qualifications Education Specialist Trainee and Intern Psychologist**

The table below outlines the relevant academic qualifications required for the occupational groups Education Specialist Trainee and Intern Psychologist.

Education Specialist Trainee	Masters degree and an undertaking to complete additional papers to enable entry to a NZ Psychologists Board recognised and approved Educational Psychologist Internship Programme within an agreed timeframe.
Intern Psychologist	The requisite papers to enable access to a NZ Psychologists Board recognised and approved Educational Psychologist Internship Programme.

## **APPENDIX D**

### **Lead Practitioner Provisions**

The following conditions apply to field staff undertaking the role of Lead Practitioner. The provisions of this Appendix apply only until such time as new structures for professional leadership are developed and implemented. The Ministry will work with the NZEI in developing these structures.

Any changes to the collective agreement as a result of the development of the new structure will be incorporated in the field staff collective agreement by way of variation.

Duties associated with the Lead Practitioner role will be recognised through Clause 3.5 of this Collective Agreement – Additional Responsibilities.

The additional remuneration applicable to the Lead Practitioner role will be within the range \$1,000 to \$3,000, the exact figure dependent on the overall “size” of the Lead Practitioner role as determined by the Regional Manager. For clarity the Ministry position is that the overall “size” relates to the number of staff being supported by the Lead Practitioner.

The minimum release time for Lead Practitioner duties is 0.2 FTE.

Field Staff undertaking a Lead Practitioner role are entitled to reimbursement under Cause 4.2.1 of this agreement.

## **APPENDIX E**

Excerpts from terms of settlement 2010

### **1. Workload Working Party and TOIL**

The parties' recognise that NZEI wish to engage the Ministry around workload issues which were highlighted by members during the claim development process. In response to this, NZEI undertook a survey on workload with members and wish to table and discuss these results jointly with the Ministry, with a view to working through them.

NZEI also identified issues around the operation of TOIL and tabled survey data during the bargaining process. The Ministry has identified the operation of TOIL as being complex and requires clarity and consistency.

This work will commence no later than 1 June 2011.

### **2. Tools for the job (reimbursement for personal cellphone use)**

The Ministry needs to undertake further work on the application and operation of re-imbursment for private cell phone use when used in a work capacity. NZEI have indicated that some members are having issues with reimbursement due to the inability to provide evidence of calls and texts used for Ministry business. This is often due to the type of plan that they are on.

The Ministry commits to engaging with the NZEI on the outcome of this work. The Ministry will consider any feedback provided by the NZEI prior to any change in policy or the application thereof.

### **3. Field Staff Work Programme**

A working party was established in 2008 to identify and design a framework that supports career progression and skills development. The work has been ongoing since then.

Both the Ministry and NZEI members need a career development structure that;

- Recognises the performance of each member of the Ministry's Special Education workforce.
- Is fiscally sustainable.
- Aligns the Field Staff career development structure to other similar workforces in New Zealand.
- Is able to effectively match offerings in the market in terms of career opportunities and progression.

The working party will produce a completed report for the Deputy Secretary Special Education by 1 May 2011.

The NZEI and the Ministry note the letter from the Deputy Secretary Special Education to the project team members dated 20 August 2010 in which he was supportive of the work continuing and saw it as an urgent priority to move

forward.

Any changes to the Collective Agreement as a result of this work will be implemented by way of variation to the Collective Agreement in accordance with Part 8 of the Ministry of Education / NZEI Te Riu Roa Collective Agreement for Field Staff.