**Education Report:** Section 159L Funding Determinations for the Industry Training Fund and MPTT, and Fees Free Delegation Letter

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<th>Hon Chris Hipkins, Minister of Education</th>
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**Purpose of report**

This report seeks your agreement to issue two funding determinations under section 159L of the Education Act 1989 for:

- The Industry Training Fund; and
- Māori and Pasifika Trades Training.

This report also seeks your agreement to issue a new letter of delegation to fund Fees Free tertiary education and training accessed in 2020 until the end of the 2020/21 financial year.
Recommended actions

The Ministry of Education recommends you:

Fees Free Delegation

a. **note** that in August 2019, you agreed that no changes would be made at this time to the existing Fees Free policy settings [METIS 1186515 refers] and this has been reflected in the updated Fees Free delegation (attached in Appendix 1)

Industry Training Fund

b. **note** that a 1.8 percent increase will be applied to all funding rates within the Industry Training Fund funding determination in line with Budget 2019 decisions

c. **agree** that the funding determination for the Industry Training Fund (attached in Appendix 2) be adapted to allow holding organisations to access funding

   Agree / Disagree

d. **agree** that the drafted funding determination for the Industry Training Fund takes effect from 1 January 2020

   Agree / Disagree

Māori and Pasifika Trades Training

e. **agree** that the funding determination for Māori and Pasifika Trades Training (attached in Appendix 3) be adapted to allow holding organisations to be part of consortia arrangements

   Agree / Disagree

f. **agree** that the drafted funding determination for Māori and Pasifika Trades Training takes effect from 1 January 2020

   Agree / Disagree

g. **sign** the attached letters to the Chair of the Tertiary Education Commission

h. **agree** to proactively release this Education Report.

   Agree / Disagree


Andy Jackson
Group Manager
Graduate Achievement, Vocations and Careers
14/10/2019

Hon Chris Hipkins
Minister of Education

22/10/19
Background

1. The Minister of Education provides instructions about tertiary education funding to the Tertiary Education Commission (TEC) in the form of determinations issued under section 159L of the Education Act 1989 (the Act). Once the Minister has issued a funding determination, the TEC develops operational details of how to implement the determination. Funding determinations are reissued from time to time to reflect changes in Government policy, or if they are time-limited and expire.

2. In July 2019, you issued three funding determinations for Literacy and Numeracy, Specialised English for Speakers of Other Languages and the Wānanga Research Capability Fund [METIS 1198534 refers]. This paper seeks your agreement to issue two further funding determinations. Changes to three more funding determinations are subject to ongoing policy work, including the Reform of Vocational Education (RoVE). We will seek your agreement to issue these remaining funding determinations this month after the related policy work and processes have been completed.

Changes to funding determinations

3. The current funding determinations for the Industry Training Fund and Māori and Pasifika Trades Training (MPTT) are open-ended. The Industry Training Fund funding determination needs to be reissued to reflect agreed increases to funding rates through Budget 2019. We have also proposed changes to both funding determinations to support the RoVE transition.

Funding increase

4. As part of Budget 2019, funding was appropriated to increase subsidy rates for all tertiary education and training funded through the Tertiary Tuition and Training Multi-Category Appropriation by 1.8 percent. This includes the Industry Training Fund.

5. To implement this funding increase, we have increased all the funding rates within the funding determination for the Industry Training Fund by 1.8 percent.

RoVE changes

6. In July, Cabinet agreed that transitional industry training organisations (transitional ITOs) would be formed from industry training organisations (ITOs) and recognised by the responsible Minister to undertake ITOs' functions [CAB-19-MIN-0354 refers]. This transition will be carefully managed over a three year period.

7. As part of the transition arrangements, we recommend adapting the wording within the Industry Training Fund funding determination to allow transitional ITOs to receive funding though this mechanism. The Industry Training Fund currently funds ITOs. Allowing transitional ITOs to be funded in the same way as ITOs are currently gives certainty to the sector through the initial transition period.

8. Cabinet also agreed that work-based training functions will over time transfer from transitional ITOs to tertiary education providers. We have also recommended changes to the wording of the funding determination to support this transition.

9. The MPTT funding determination also refers to ITOs as part of their consortia arrangements. We recommend reflecting the wording in the Industry Training Fund in the MPTT funding determination, to allow transitional ITOs to participate as part of consortia.
10. Our legal team advises that the changes made will not be activated before the Education (Vocational Education and Training Reform) Amendment Bill passes, and therefore mitigates risks around pre-empting the passage of legislation.

Other minor changes

11. We have also made minor drafting changes to the funding determinations in consultation with TEC. These minor amendments improve the clarity and consistency of wording and do not contain any policy changes.

Renewing the Ministerial delegation for the Fees Free policy

12. The Ministerial delegation for Fees Free tertiary education and training provides detailed instructions for the TEC to administer funding for the Fees Free policy. The current delegation for 2019 only applies to people accessing Fees Free in the 2019 calendar year and expires at the end of the 2019/20 financial year.

13. In August, we provided you with an update on the current Fees Free policy settings and discussed a number of potential issues for consideration. You agreed that no changes should be made at this time to the existing Fees Free policy settings [METIS 1186515 refers].

14. We have worked with the TEC to draft an updated Ministerial delegation for the Fees Free policy. The proposed changes are minor and do not contain any policy changes. The minor changes relate to:
   a. updating years and dates to reflect that the delegation applies for the 2020 calendar year; and
   b. improving the clarity of wording, particularly in relation to the distinction between settings for 'provider-based' provision and 'industry training', which are distinguished by their source of funding.

15. We are continuing to work with the TEC to monitor the implementation and performance of the current Fees Free policy. The Ministry and TEC will provide an update in November on Fees Free reporting as at August 2019.

Next Steps

16. We have worked with the TEC on the attached draft funding determinations for your approval. Letters to the Chair of the TEC, advising him of your determinations of the design of the funding mechanisms and letter of delegation are attached. We recommend you sign the attached letters and send them with the funding mechanisms to the TEC.

17. The TEC will publish the funding mechanisms on their website to communicate the updated funding mechanisms to the sector. The TEC will also update their 2020 funding letters to tertiary providers expected to be sent in October.

18. We recommend proactively releasing this paper when the funding determinations are published on the TEC website.
Dear Nigel,

Delegation to fund Fees Free tertiary education and training in 2020

1. I am writing to advise you of a delegation to administer funding for the Fees Free Tertiary Education and Training policy from 1 January 2020. This replaces the Tertiary Education Commission’s (TEC’s) delegation to administer the Fees Free policy in 2019.

2. The purpose of the Fees Free policy, which was introduced on 1 January 2018, is to make the first year of tertiary education described in paragraph 12 (“provider-based”) fees-free or the first two years of industry training funded through the Industry Training Fund (“industry training”) fees-free for new students or trainees.

3. In November 2017, Cabinet agreed to the parameters of the Fees Free policy, including eligibility criteria and a delivery system led by the TEC [CAB-17-MIN-0515 refers]. In August 2018, Cabinet agreed to minor changes to the Fees Free policy from 1 January 2019 [CAB-18-MIN-0401 refers]. In August, I agreed that no changes should be made to the existing Fees Free policy settings [METIS 1186515 refers].

4. This policy supports the Government’s commitment to make tertiary education and training affordable for all by:
   a. improving affordability and reducing debt levels;
   b. expanding access and participation, especially for those who have not previously studied or those for whom finance has been a real barrier to participation;
   c. supporting lifelong learning;
   d. ensuring the benefits of tertiary education for New Zealanders, including residents with an ongoing commitment to New Zealand, are shared through a highly-skilled population contributing to a strong society and thriving economy.
Delegation to determine eligibility for Fees Free tertiary education and training

5. I delegate to the TEC, under sections 159F(1)(e) and 159I(1) of the Education Act 1989 (the Act), the authority to determine whether a student or trainee is eligible for Fees Free tertiary education provision by applying the criteria set out below.

Citizenship or residency criteria

6. To be eligible for Fees Free in provider-based tertiary education a student must be one of the following:
   
   a. a New Zealand citizen; or
   
   b. ordinarily resident in New Zealand and:
      
      i. have been living in New Zealand for at least 3 years while holding a residence class visa; or
      
      ii. a refugee or protected person; or
      
      iii. sponsored into New Zealand by someone in their family who, at the time of sponsorship, was a refugee or protected person.

7. To be eligible for Fees Free industry training, a trainee must be legally entitled to reside and work in New Zealand.

Prior study criteria

8. To be eligible for Fees Free for provider-based tertiary education and industry training, a student or trainee must have either:
   
   a. been enrolled in a school in or after 2017,\(^1\) other than as an adult student; or
   
   b. not undertaken more than half a year of equivalent full-time tertiary education (0.5 equivalent full-time student (EFTS) units or 60 credits) at Level 3 or above on the New Zealand Qualifications Framework (NZQF), including tertiary education at an equivalent level undertaken in any country.

9. The following credits must not be included in measures of prior tertiary education in paragraph 8 to determine eligibility for Fees Free:
   
   a. any tertiary education undertaken while enrolled in school prior to 1 January 2019 (except for tertiary education undertaken as an adult student); and
   
   b. any tertiary courses undertaken as part of the student's or trainee's school learning programme or secondary-tertiary programme on or after 1 January 2018; and
   
   c. any credits achieved as part of any industry training programme that consists of fewer than 120 credits that are reported after 1 January 2018.

\(^1\) This includes those enrolled in a school who have a certificate of exemption under section 21 of the Act.
10. For the purposes of paragraphs 8a and 9a, an adult student, under the Act, is any student whose 19th birthday occurred before 1 January of the current year. This definition does not apply to students deemed to require special education under Section 9 of the Act.

**Eligible courses or programmes**

11. To be eligible for Fees Free for provider-based tertiary education, a student must be enrolled in an eligible course.

12. An eligible course for provider-based tertiary education is a course that is:
   a. funded by the TEC from either:
      i. the SAC Level 3 and above fund; or
      ii. grants under section 321 of the Act for tertiary provision that is part of a qualification or training scheme on the NZQF at Level 3 or above; or
      iii. the Youth Guarantee fund and leads to the award of a qualification on the NZQF at Level 3 or above; and
   b. not part of a school learning programme or secondary-tertiary programme.

13. For the purposes of paragraph 12(a)(i) and (iii), the TEC must not pay any amount in respect of fees where the fees are met under another funding arrangement (such as from the Youth Guarantee Fund or Māori and Pasifika Trades Training funding).

14. To be eligible for Fees Free in industry training, a trainee must be enrolled in a programme that is:
   a. at NZQF Level 3 or above; and
   b. approved by NZQA; and
   c. comprised of at least 120 credits (which includes all New Zealand Apprenticeships); and
   d. not part of a school learning programme or secondary-tertiary programme.

**Delegation to make payments for Fees Free tertiary education and training**

15. I delegate to the TEC, under sections 159F(1)(e) and 159l(1) of the Act, the authority to make payments in respect of eligible Fees Free students and trainees as set out below.

**Fees Free entitlement limits**

16. The TEC will pay no more than $12,000 (GST incl.) total to all tertiary education organisations (TEOs) in respect of any individual student or trainee eligible for Fees Free provider-based tertiary education or industry training.

17. Individual students or trainees who received any Fees Free support in prior calendar years are to receive no more than 1 EFTS unit of Fees Free support in total or 24 months of industry training.
18. The TEC must calculate a trainee’s 24 month entitlement:
   a. from the start date of the first programme in which the eligible trainee is enrolled; and
   b. by only including the months in which the trainee received industry training in an eligible programme or programmes.

19. The TEC must develop operational rules to assess entitlement limits and consumption by individuals who combine both industry training and provider-based study, taking into account the intent of the Fees Free policy.

Payments for provider-based tertiary education

20. I delegate to the TEC the authority to:
   a. if the TEO is not a private training establishment (PTE), pay the TEO in respect of fees on behalf of an eligible student in accordance with paragraphs 16-18; or
   b. if the TEO is a PTE, compensate the PTE in respect of an eligible student in accordance with paragraphs 16-18 for fees forgone as the result of a condition imposed on the PTE’s funding.

21. For the purposes of paragraph 20, “fees” are defined as:
   a. compulsory tuition fees; and
   b. compulsory course costs, which may only include:
      i. examination fees; and
      ii. material charges; and
      iii. costs of field trips; and
      iv. costs associated with the compulsory purchase of equipment or books through the TEO with which the student is enrolled; and
      v. other charges associated with a course; and
   c. compulsory student services fees.

22. The TEC must only make a payment to a TEO in respect of an eligible student’s compulsory tuition fees and compulsory course costs if:
   a. the fee charged by the TEO is equal to, or less than, the fee that is recorded in Services for Tertiary Education Organisations (STEO); and
   b. the TEO charges that fee to every student in the same circumstances (whether or not they are eligible for Fees Free tertiary education) who is enrolled in the same course; and
c. the fees comply with all fee regulation requirements imposed as conditions on the TEO’s funding.

23. The TEC must only make a payment to a TEO in respect of an eligible student’s compulsory student services fee, if that fee is consistent with the Ministerial direction on Compulsory Student Services Fees in effect.

24. 

s 9(2)(f)(iv)

This does not apply if the student was not determined to be eligible in 2018 or 2019 through no fault of the student.

Payments for industry training

25. I delegate to the TEC the authority to make fee payments to TEOs on behalf of an eligible trainee (or their employer) in accordance with paragraphs 16-18.

26. For the purposes of paragraph 25, "fee" means fees for training and assessment, including fees paid to organisations eligible for funding under the Industry Training Fund, paid directly to training and assessment providers, or paid as part of fees charged by group training schemes.

27. The TEC must not make any retrospective payments in 2020 relating to the fees paid by trainees (or their employers) who, despite meeting the eligibility criteria in 2018 or 2019, were not determined by the TEC to be eligible for Fees Free tertiary education in 2018 or 2019. This does not apply if the trainee was not determined to be eligible in 2018 or 2019 through no fault of the trainee.

Consumption

28. If an eligible student or trainee was enrolled in an eligible course or eligible programme in or after 2018, the eligible student or trainee has received (consumed) all or part of their Fees Free entitlement (whether or not the TEC made payments to a TEO in respect of that student or trainee).

29. The TEC must develop processes to determine the amount of their Fees Free entitlement that each eligible student or trainee has consumed.

Carry-over

30. If an eligible student or trainee was enrolled in an eligible course or an eligible programme in or after 2018 but did not consume their maximum Fees Free entitlement within the first calendar year of commencing an eligible course or industry training programme (as specified in paragraphs 16-18), the TEC must develop a mechanism to enable that student or trainee to carry-over the remaining portion of their Fees Free entitlement.

31. For the purposes of paragraph 30, an eligible student's or trainee's maximum Fees Free entitlement that may be carried-over is any amount payable until one of the following occurs:

a. the TEC has paid $12,000 (GST incl.) to TEOs in respect of the student’s or trainee’s fees; or
b. the student has consumed 1 EFTS unit; or

c. the student or trainee has been enrolled in 24 months of an eligible industry training programme or apprenticeship, calculated in accordance with paragraph 18; or

d. the student or trainee (if combining both industry training and provider-based tertiary education) has consumed their Fees Free entitlement in accordance with the operational rules developed under paragraph 19.

**Operationalising the policy**

32. The TEC will work with the sector and other government agencies to support the implementation of the Fees Free policy, and to advise me of any significant issues that arise.

33. The TEC must determine arrangements with TEOs for the operation of provider-based Fees Free tertiary education.

34. The TEC must determine arrangements with TEOs funded through the Industry Training fund for the operation of Fees Free tertiary education based on the following principles:

   a. eligible trainees and their employers will not be charged by TEOs or any provider contracted by the TEOs for training and assessment costs; and

   b. the TEC will pay TEOs the identified actual and reasonable cost, as determined by the TEC, of the fees (with the proposed fees and charges in the previous year as the baseline for establishing payment); and

   c. TEOs will be required to ensure that trainees fully benefit from the Fees Free policy – ensuring that employers and training/assessment providers do not charge trainees for costs covered by the payment to TEOs (whether as explicit training and assessment fees, or as part of a broader fee, or by deductions from wages).

**Exceptional circumstances**

35. The TEC may use discretion to determine that a student or trainee who does not meet all of the criteria is eligible for Fees Free tertiary education after considering the student’s or trainee’s exceptional personal circumstances.

36. The TEC may use discretion to write-off all, or a portion of, an eligible student’s or trainee’s consumption of their Fees Free entitlement after considering the student’s or trainee’s exceptional personal circumstances.

37. In determining cases of exceptional personal circumstances, the TEC should take into account the intent of the Fees Free policy.
Time period for this delegation

38. This delegation applies to payments for the Fees Free tertiary education policy from the date of this letter until the end of the 2020/21 financial year. The TEC may exercise any of its administrative functions as required to give effect to this delegation outside of these dates.

Yours sincerely

[Signature]

Hon Chris Hipkins
Minister of Education
Nigel Gould  
Chair  
Tertiary Education Commission  
PO Box 27-048  
Wellington 6141

Dear Nigel,

**Determination of Design of Funding Mechanism: Industry Training Fund**

I am writing to advise you of a determination of the design of a funding mechanism, under section 159L of the Education Act 1989 (the Act), for the Industry Training Fund.

The new determination is set out in the appendix to this letter. The determination covers the funding of industry training provision delivered from 1 January 2020. The new determination includes a 1.8 percent increase to all funding rates specified in the determination. It also supports transitions which may occur as part of the Reform of Vocational Education.

Under section 159O of the Act, it is the Commission’s responsibility to develop the details needed to implement my determinations for the design of funding mechanisms.

I expect that the Commission will set appropriate measures as part of its statement of service performance in order to report to me on its performance in giving effect to this determination.

Yours sincerely,

Hon Chris Hipkins  
Minister of Education
DETERMINATION OF DESIGN OF FUNDING MECHANISM: INDUSTRY TRAINING FUND

PRELIMINARY PROVISIONS

Introduction and statutory authority

1. This determination, which is made under section 159L of the Education Act 1989 (the Act), specifies the design of the funding mechanism for the Industry Training Fund (ITF).

2. This funding mechanism enables the Tertiary Education Commission (TEC) to fund:

   a) industry training organisations (ITOs) to carry out their activities under the Industry Training and Apprenticeships Act 1992 (unless and until they are recognised as Transitional ITOs under clause 43 of Schedule 1 of the Education (Vocational Education and Training Reform) Amendment Bill (the Bill)); and

   b) transitional ITOs to carry out their activities under the Bill (see Part 9 of Schedule 1 of the Bill); and

   c) providers (as defined in the proposed new section 477 inserted by clause 65 of the Bill) to whom responsibility is transferred for the purposes of the elements of the transition plan (referred to in clause 51(a)(ii) of Schedule 1 of the Bill); and

   d) providers of education and training for the purposes of training contracts (see the definition of "training contract" inserted into section 159(1) of the Education Act 1989 by clause 7(8) of the Bill); and

   e) providers carrying out apprenticeship training activities under the proposed Subpart 2 of Part 34 inserted by clause 65 of the Bill; and

   f) eligible organisations participating in the ITF direct funding scheme.

3. References in this funding mechanism to an entity above involving the Bill only take effect if and when the Bill is passed as an Act of Parliament and comes into force. References to provisions within the Bill are taken from the introduction version of the Bill and, if the Bill is passed, each reference should be read as the corresponding provision in the Act. For the purposes of this funding mechanism the entities referred to in paragraphs (a), (b), (c), (d) and (e) are collectively known as 'training organisations'.

Purpose

4. The ITF covers:

   a) industry training; and

   b) New Zealand Apprenticeships; and

   c) industry training-related projects.
5. The purpose of the ITF is to subsidise formal, structured employment-based training linked to qualifications, predominantly at levels 1 to 4 on the New Zealand Qualifications Framework (NZQF). The ITF encourages structured training by supporting training organisations and organisations participating in the ITF direct funding scheme in their management of on- and off-job training. Funding from the ITF can also be applied to industry training-related projects.

**On-Plan and Off-Plan funding**

6. The TEC must pay funding from the ITF under section 159YA of the Act in relation to tertiary education organisations (TEOs) funded via an Investment Plan.

7. The TEC must pay funding from the ITF under section 159ZC of the Act in relation to TEOs exempt under section 159U of the Act from submitting a proposed Investment Plan.

8. The TEC must pay funding from the ITF under section 159ZC of the Act in relation to industry-training related projects.

**PART ONE: THE FUNDING MECHANISM**

**General parameters**

**Effective period**

9. This funding mechanism relates to funding for activities from 1 January 2020.

10. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism before this date.

11. The TEC may continue to fund, from the ITF, activities that commenced prior to 1 January 2020.

**Available funding**

12. The total Government funding that can be spent under this funding mechanism will be set through the Government’s annual budget processes.

**Flexible funding**

13. The TEC must establish criteria, based on minimum thresholds for organisational and educational performance, for determining under which circumstances a TEO qualifies for the additional funding described in paragraph 15 (a "qualifying TEO").

14. The TEC must allocate additional funding, over and above that approved through Investment Plans, to a qualifying TEO if the value of New Zealand Apprenticeship training arranged by the TEO, as measured in dollars, is greater than the value of the TEO’s approved funding allocation for New Zealand Apprenticeship training.

15. If a qualifying TEO meets the condition specified in paragraph 13, the TEC must pay the TEO up to the following limits, either:
a) 2% of the qualifying TEO's approved funding allocation for New Zealand Apprenticeships for a year; or

b) 10 standard training measures (STMs) for New Zealand Apprenticeships, whichever is greater.

16. The TEC may establish criteria to allocate funding above the additional funding limits specified in paragraph 15, provided the TEC has assessed whether the funding available is sufficient for the TEC to provide funding above these limits.

**Funding formula and rates**

17. The TEC must allocate ITF funding (other than project funding) to a TEO based on the number of industry trainees (including New Zealand Apprentices) validly registered with the TEO, measured in STMs.

18. A STM is defined as the amount of training that is required for an industry trainee to achieve 120 NZQF credits.

**Formula for funding**

19. The TEC must use the following formula to calculate the number of STMs for which a TEO is entitled to receive funding:

\[
\text{funded STMs} = \frac{\text{number of enrolled trainees} \times \text{credits per trainee per year}}{120}
\]

20. The TEC must determine the maximum number of credits for which a TEO can apply the funding in respect of an industry trainee in each year.

**Funding rates**

21. The funding rate for a single STM for industry training is:

a) $3,258.00 (GST exclusive) for training arranged by a training organisation; or

b) $2,932.00 (GST exclusive) for training arranged by a TEO accessing the ITF through the direct funding scheme.

22. The funding rate for a single STM for New Zealand Apprenticeships (as defined under this funding mechanism) is:

a) $5,294.00 (GST exclusive) for a New Zealand Apprenticeship arranged by a training organisation; or

b) $4,764.00 (GST exclusive) for a New Zealand Apprenticeship arranged by a TEO accessing the ITF through the direct funding scheme.

**Performance standards**

23. The TEC must set minimum performance standards, including credit achievement standards.
**TEO eligibility**

24. The TEC must not fund an ITO or a transitional ITO (see Part 9 of Schedule 1 of the Bill) to deliver training itself, and an ITO or a transitional ITO must not have any ownership stake in, or be a beneficiary of, an organisation with which the training organisation arranges to deliver the training.

25. The TEC may only fund an eligible organisation\(^1\) under this funding mechanism if the organisation satisfies the eligibility and assessment criteria for participation in the ITF direct funding scheme.

26. The TEC may also fund organisations that are not training organisations or eligible organisations from the ITF, but may only fund them for industry training-related projects.

*Eligibility criteria for organisations to participate in the ITF direct funding scheme*

27. The TEC must use the following general criteria to select organisations to participate in the ITF direct funding scheme. An eligible organisation must:

   a) be one of the following:
      
      i. an employer; or
      
      ii. a group of employers or industry associations that are part of a consortium arrangement; and

   b) have at least 40 industry trainees each year who:
      
      i. are actively training towards one or more of the qualifications and programmes set out in paragraph 32; and
      
      ii. meet the industry trainee eligibility criteria set out in paragraph 30.

28. The TEC may determine if any additional criteria are needed to select organisations to participate in the ITF direct funding scheme, and apply those criteria in the assessment process.

*Industry trainee eligibility*

29. The TEC must not fund a TEO for a learner who does not meet the criteria to be an "industry trainee".

30. For the purposes of this funding mechanism, an "industry trainee" is:

   a) one of the following:
      
      i. an employee who is employed and working in New Zealand and has a training agreement with their employer; or
      
      ii. a self-employed contractor working in New Zealand under an arrangement with an organisation in the nature of employment, who

\(^1\)An organisation as defined in section 159B(1)(c) of the Act.
has a training agreement with that organisation and meets any additional criteria determined by the TEC; or

iii. a person volunteering in New Zealand under an arrangement with an organisation in the nature of employment, who has a training agreement with that organisation and meets any additional criteria determined by the TEC; and

b) 16 years of age or over (unless the industry trainee meets additional eligibility criteria determined by the TEC).

31. The TEC must establish the requirements that TEOs must comply with to verify each learner’s identity.

**Programme eligibility**

32. Funding paid from the ITF under this funding mechanism may be used for the purpose of arranging:

a) a programme of training leading to a National or New Zealand Certificate; or

b) a programme of training leading to a National or New Zealand Diploma; or

c) a Limited Credit Programme that:

i. is designed to encourage entry into a full qualification; and

ii. has a minimum of 20 credits and a maximum of 70 credits; and

iii. is composed of skill standards drawn from a programme that leads to a qualification for which the TEO has TEC funding approval; and

iv. meets any other criteria as specified by TEC; or

d) a Supplementary Credit Programme that:

i. is designed to provide post-qualification skill development; and

ii. has a minimum of 20 credits and a maximum of 70 credits; and

iii. is composed of skill standards drawn from a programme that leads to a qualification for which the TEO has TEC funding approval; or

e) a training arrangement or micro-credential of between 5 and 40 credits, composed of skill standards for which the TEO has consent to assess, that, according to criteria set by the TEC, has been adequately quality assured.

33. In providing funding from the ITF to a TEO under this funding mechanism, the TEC must require the following:

a) that the TEO meets any quality assurance requirements of the New Zealand Qualifications Authority (NZQA); and

b) that a majority of training occurs on-job.
34. A programme leading to a qualification at level 1, 2, or 3 on the NZQF must include embedded literacy and numeracy.

35. A TEO must use the Literacy and Numeracy for Adults Assessment Tool to identify the literacy and numeracy needs of each industry trainee for whom funding is provided and to measure the industry trainee’s progress, as required by the TEC.

36. The TEC must restrict funding as follows:
   a) for industry training that does not lead to a listed qualification, by developing criteria limiting the funding eligibility of this training; and
   b) allocating a maximum of 10% of the total ITF to training at level 5 and above on the NZQF.

Health and safety and regulatory compliance learning may not be funded

37. The TEC must not provide funding under this funding mechanism for learning that can be defined as one or more of the following:
   a) a programme designed primarily to equip a participant with the skills and knowledge they need to carry out a given task or function in a manner that complies with a specific health and safety or regulatory compliance requirement; or
   b) learning that displaces the responsibility of employers to provide training necessary to mitigate health and safety, and legal risks.

38. The TEC must not provide funding for a programme containing health and safety and regulatory compliance learning if it considers it likely that most enrolments will lead only to completion of the health and safety or regulatory compliance components, rather than the whole qualification.2

New Zealand Apprenticeships

39. The TEC may provide funding from the ITF to fund New Zealand Apprenticeships. These are programmes of training that:
   a) provide an entry point into an occupation to set a person up for a career in an industry; and
   b) meet any regulatory requirements for entry into an occupation; and
   c) contain a strong theoretical component to support further learning, as well as a practical element; and
   d) are directly related to the intended career; and
   e) lead to either:

2 Subject to paragraph 37, health and safety and regulatory compliance learning may comprise part of a larger programme that includes an appropriately wide range of skills.
i. a qualification at level 4 on the NZQF that has a minimum of 120 credits and, if approved by the TEC, additional qualifications at level 3 or level 4 on the NZQF; or

ii. multiple qualifications that together have at least 120 credits, provided those qualifications are at level 3 and level 4 on the NZQF, and at least 60 credits are at level 4 on the NZQF; and

f) meet any additional criteria set by the TEC to ensure that the programme is focussed on level 4 outcomes on the NZQF.

40. In addition to the eligibility requirements for an industry trainee in paragraph 30, a New Zealand Apprentice must be:

a) employed in the occupation for which the apprentice is training; and

b) supported by a training plan agreed by the apprentice, the employer, and the organisation arranging the training, throughout the programme of training; and

c) enrolled in a New Zealand Apprenticeship.

41. TEC funding for a TEO for an eligible New Zealand Apprentice must be at the rates specified in paragraph 21.

42. The TEC must approve, and maintain, a register of all New Zealand Apprenticeships, and may withdraw approval, with effect for new enrolments after a reasonable notice period.

Activities eligible for funding from the ITF

Arranging training

43. The TEC may fund a training organisation from the ITF under this funding mechanism to arrange training in respect of an industry trainee:

a) in an industry for which the training organisation is recognised by the Minister under the Industry Training and Apprenticeship Act 1992 or the Act; or

b) in an arrangement approved by the TEC under the Industry Training and Apprenticeship Act 1992 or the Act.

44. The TEC may fund an eligible organisation participating in the ITF direct funding scheme from the ITF to arrange training.

45. To receive funding for arranging training for any industry trainee, the TEO must keep a record of evidence that the industry trainee has a formal training agreement with their employer that is intended to lead to the completion of one or more of the programmes set out in paragraph 32.

Industry training-related projects

46. The TEC may, under this funding mechanism, fund industry training-related projects from the ITF for the following purposes:
a) to support the organisation of vocational skills competitions, including contributing towards the costs of representation at the international World Skills competition (up to $450,000.00 per year, GST exclusive); and

b) to assist training organisations to work together and with other organisations (up to $3,500,000.00 per year, GST exclusive) to:
   i. facilitate desirable structural changes and joint-ventures in the sector;
   ii. support best practice in vocational education and training;
   iii. support projects to enhance the efficiency and effectiveness of training organisations.

47. The TEC must set appropriate criteria and monitoring and evaluation requirements for industry training-related projects, to ensure that the projects provide value for money and contribute to the government’s strategic objectives for tertiary education.

PART TWO: FUNDING CONDITIONS

General conditions for Off-Plan funding

48. The TEC may impose any conditions on funding paid under this funding mechanism under section 159ZC that it considers necessary to ensure that funding will achieve the purpose for which it has been allocated.

Conditions that the TEC must attach to funding (On- and Off-Plan)

49. The TEC must attach the following specific conditions on funding paid under this funding mechanism:

TEO ownership and subcontracting

50. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must, for the length of the funding period, continue to:

   a) be a training organisation fully or provisionally recognised by the Minister under the Industry Training and Apprenticeships Act 1992 or the Act; or

   b) in relation to an eligible organisation funded through the ITF direct funding scheme, meet the eligibility criteria specified in paragraph 27, and any additional criteria determined and applied by the TEC under paragraph 28; or

   c) in relation to an organisation receiving funding for an industry training-related project, to meet criteria specified by the TEC.

51. The TEC must attach to funding for an ITO or a transitional ITO (see Part 9 of Schedule 1 of the Bill) a condition that the organisation must not deliver training itself, and must not have any ownership stake in, be a beneficiary of, or hold an interest (financial or otherwise) in an organisation with which the ITO or transitional ITO arranges the delivery of training.
52. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:

   a) not subcontract its functions without the TEC’s written consent; and

   b) comply with any conditions imposed by the TEC on a consent; and

   c) ensure that a subcontracted party does not further subcontract any functions.

Financial contribution

53. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that all employers of industry trainees or apprentices who are enrolled with the TEO make a financial contribution towards the cost of each trainee’s or apprentice’s training and assessment, noting that there may be some specific circumstances where the full financial costs of training and assessment for a trainee could be met by the financial contribution from the ITF and the fees-free tertiary education initiative.

Industry trainees and New Zealand Apprentices

54. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that:

   a) each industry trainee who is enrolled in an industry training programme meets and continues to meet the criteria specified in paragraph 30 of this funding mechanism; and

   b) each New Zealand Apprentice who is enrolled in a New Zealand Apprenticeship meets and continues to meet the criteria specified in paragraphs 30 and 40 of this funding mechanism.

Programmes

55. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must ensure that a programme in which an eligible industry trainee is enrolled:

   a) continues to meet the eligibility criteria specified in:

      i. paragraph 32 of this funding mechanism; and

      ii. paragraph 39 of this funding mechanism if the programme is delivered to a New Zealand Apprentice;

   b) includes a majority of on-job training;

   c) meets any quality assurance requirements of NZQA;

   d) does not include learning specified in paragraph 37 or 38 of this funding mechanism; and
e) includes embedded literacy and numeracy if that programme is at level 1, 2, or 3 on the NZQF.

56. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must use the Literacy and Numeracy for Adults Assessment Tool to identify the literacy and numeracy needs of each industry trainee for whom funding is provided and measure the industry trainee's progress, as required by the TEC.

57. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must not spend more than 10% of the funding it has received for training above level 4 on the NZQF unless it has approval from the TEC.

58. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must not apply the funding in relation to any industry trainee above a maximum number of credits per year, as determined by the TEC.

**Fees Free Tertiary Education**

59. TEC must attach to funding a condition that a TEO must not charge an eligible trainee or eligible trainee's employer an amount in respect of fees (as defined by any delegation to the TEC in force relating to the funding of Fees-Free Tertiary Education and issued under section 159F(1)(e) of the Act), otherwise payable by the trainee or trainee's employer, if the TEC has advised the TEO that the TEC will pay that amount to the TEO in respect of fees on behalf of the trainee or employer.

60. For the purposes of the condition that the TEC must impose under paragraph 59, the TEC must determine each amount payable to a TEO by the TEC in accordance with criteria set out in any delegation for the time being in force from the Minister to the TEC under section 159F(1)(e) of the Education Act 1989 relating to the funding of Fees Free Tertiary Education.

61. Each TEO must work collaboratively with the TEC to give effect to the Fees Free tertiary education initiative in industry training. In particular, the TEO must provide information as required by the TEC, to enable the TEC to understand the STM consumption of eligible trainees, and in relation to fees.

62. Any fees in excess of the amount payable by the TEC under a delegation referred to in paragraph 60 in respect of a trainee may be charged by the TEO to the trainee or employer.

**Performance**

63. The TEC must attach to funding a condition that a TEO that receives funding from the ITF must meet any minimum performance standards set by the TEC.

**No other funding**

64. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must:

a) not (without the TEC's prior written consent) seek or obtain funding from any Crown source other than the TEC to fund a programme or training scheme which is funded under this funding mechanism; and
b) notify the TEC immediately if it becomes aware of any circumstances that might result in a breach of this condition.

**Responsible use of funding**

65. The TEC must attach to funding a condition that a TEO that receives funding under this funding mechanism must use the funding:

a) lawfully, responsibly, and for the purposes for which it is provided; and

b) in a manner consistent with the appropriate use of public funds.

**Recovery of over-funding**

66. The TEC must attach to funding a condition that if a TEO receives funding under this funding mechanism that is greater than it should have been, or that it was not entitled to receive, the TEO must treat the amount of the over-funding as a debt due to the Crown that:

a) is repayable on demand; and

b) may be set-off against all or any funding, or any sum of money payable by the TEC to the TEO.

67. The TEC must provide the TEO with reasonable notice before exercising its right to demand repayment or set-off the debt against all or any funding.

**TEC administrative responsibilities**

68. If the TEO receives funding under this funding mechanism that is less than it should have been, or less than it was entitled to receive, the TEC must treat the amount of the under-funding as a credit and pay the amount as soon as is reasonably practicable.

**Disclosure of data from Statistics New Zealand’s Integrated Data Infrastructure**

69. The TEC must attach to funding a condition that a training organisation must consent in writing, for the purposes of section 37A(a) of the Statistics Act 1975, to Statistics New Zealand disclosing information to the Ministry of Education from its Integrated Data Infrastructure that identifies, or may identify, the training organisation.

70. The TEC must inform the training organisation that the Statistics Act 1975 does not constrain the ongoing use or sharing of the data once it is disclosed.