



## Office of Hon Steven Joyce

Minister for Economic Development  
Minister of Science and Innovation  
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Associate Minister of Finance

7 NOV 2013

John Spencer  
Chair  
Tertiary Education Commission  
PO Box 27-048  
Wellington 6141

Dear John

### **Determination of Design of Funding Mechanism: Industry Training Fund and the Industry Training Organisation Strategic Leadership 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 and the Industry Training Organisation Strategic Leadership Fund. The new determination is set out in the appendix to this letter.

The determination covers the period 1 January 2014 to 31 December 2015. It reflects the changes to the industry training fund as a result of the policy review of industry training.

My expectation is that the TEC will continue to strengthen performance measurement in the industry training sector. The determination specifies that the TEC must set minimum performance standards for the industry training fund, including credit achievement standards. I gather from discussions with officials that the conditions regarding minimum performance standards that the TEC attaches to funding under this determination may be supplemented by additional measures by way of amended conditions from 2015.

The tools grant to apprentices as part of the Apprenticeships Re-boot is not within the scope of the attached determination. I delegate to the Tertiary Education Commission authority to pay tools grants to apprentices that are eligible for these under the Apprenticeships Re-boot.

Under section 159O of the Act, it is the Commission's responsibility to develop the details of how to implement the appended funding mechanism. 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 these determinations.

Yours sincerely



Steven Joyce  
Minister for Tertiary Education, Skills and Employment

# DETERMINATION OF DESIGN OF FUNDING MECHANISM: INDUSTRY TRAINING FUND AND INDUSTRY TRAINING ORGANISATION STRATEGIC LEADERSHIP 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) and Industry Training Organisation (ITO) Strategic Leadership Fund (funding mechanism).
2. This funding mechanism enables the Tertiary Education Commission (TEC) to fund ITOs to fulfil their statutory functions specified in the Industry Training Act 1992, and to fund eligible organisations participating in the initial phase of the ITF direct-funding scheme.

### *Purpose*

3. **The Industry Training Fund covers:**
  - a) industry training;
  - b) New Zealand Apprenticeships;
  - c) Modern Apprenticeships; and
  - d) industry-related projects.
4. The purpose of the ITF is to subsidise formal, structured employment-based training linked to qualifications, predominantly at levels 1-4 on the New Zealand Qualifications Framework (NZQF). The ITF encourages structured training by supporting ITOs and organisations participating in the initial phase of the ITF direct-funding scheme in their management of on-and off-job training. Funding from the ITF can also be applied to industry-related projects.
5. Funding from the ITF may be used to fund New Zealand Apprenticeships, and training for Modern Apprenticeships that commenced before 1 January 2014.
6. Brokerage fees for Modern Apprenticeships Coordinators are not subject to this funding mechanism.
7. The purpose of the **Industry Training Organisation Strategic Leadership Fund** is to support the development of new qualifications on the NZQF that reflect industry need.

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

8. The TEC must pay funding from the ITF and ITO Strategic Leadership Fund under section 159YA of the Act in relation to tertiary education organisations (TEOs) funded via an investment plan.
9. 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.
10. The TEC must pay funding from the ITF under section 159ZC of the Act in relation to industry-related projects.

## **PART ONE: THE FUNDING MECHANISM**

### **GENERAL PARAMETERS**

#### ***Effective period***

11. This funding mechanism relates to funding for activities from 1 January 2014 to 31 December 2015.
12. The TEC may exercise any of its administrative functions as required to give effect to this funding mechanism outside those dates.

#### ***Available funding***

13. The total Government funding that can be allocated under this funding mechanism will be set through the Government's annual budget processes.

### **INDUSTRY TRAINING FUND (ITF)**

#### ***Funding formula and rates***

14. The TEC must allocate ITF funding to a TEO based on the number of industry trainees (including New Zealand Apprentices and Modern Apprentices) validly registered with the TEO, measured in standard training measures (STMs).
15. An STM is defined as the amount of training that is required for an industry trainee to achieve 120 NZQF credits.

#### ***Formula for funding***

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

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

17. 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*

18. The funding rate for a single STM for industry training is:
  - a) \$3,200.00 (GST exclusive) for training arranged by an ITO; or
  - b) \$2,880.00 (GST exclusive) for training arranged by a TEO accessing the ITF through the direct funding scheme.
  
19. The funding rate for a single STM for New Zealand Apprenticeships (as defined in paragraphs 38) is:
  - a) \$5,200.00 (GST exclusive) for a New Zealand Apprenticeship arranged by an ITO; or
  - b) \$4,680.00 (GST exclusive) for a New Zealand Apprenticeship training arranged by a TEO accessing the ITF through the direct funding scheme.
  
20. The funding rate for Modern Apprentices who were enrolled prior to 1 January 2014, and continue to train as Modern Apprentices, is:
  - a) \$5,200.00 (GST exclusive) per STM for a Modern Apprentice who is enrolled with an ITO Modern Apprenticeship Coordinator; or
  - b) \$2,919.00 (GST exclusive) per STM for a Modern Apprentice who is enrolled with an independent Modern Apprenticeship Coordinator who is still receiving Modern Apprenticeship brokerage fees for the Modern Apprentice<sup>1</sup>; or
  - c) \$4,680.00 (GST exclusive) per STM for a Modern Apprentice who is enrolled with a TEO accessing the ITF through the direct funding scheme.

### ***Performance standards***

21. The TEC must set minimum performance standards, including credit achievement standards.

### ***TEO eligibility***

22. The TEC may only fund an ITO from the ITF under this funding mechanism if the ITO is fully or provisionally recognised by the Minister of Tertiary Education, Skills and Employment (the Minister) under the Industry Training Act 1992.
  
23. The TEC must not fund an ITO to deliver training itself, and an ITO must not have any ownership stake in, or be a beneficiary of, an organisation with which the ITO arranges to deliver the training.

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<sup>1</sup> These fees, paid to Modern Apprenticeship Coordinators, sit outside of this funding mechanism.

24. The TEC may only fund an eligible organisation<sup>2</sup> from the ITF under this funding mechanism if the organisation satisfies the eligibility and assessment criteria for participation in the initial phase of the ITF direct-funding scheme.
25. The TEC may only fund organisations other than those specified in paragraphs 22 and 24 from the ITF for industry-related projects.

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

26. The TEC must use the following general criteria to select organisations to participate in the initial phase of 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; or
    - iii. a group training scheme<sup>3</sup>; or
    - iv. a Modern Apprenticeship Coordinator (who is not employed by an ITO); and
  - b) have at least 40 industry trainees in both 2014 and 2015 who:
    - i. are actively training towards one or more of the qualifications and programmes set out in paragraph 30; and
    - ii. meet the industry trainee eligibility criteria set out in paragraph 29; and
    - iii. may be New Zealand Apprentices, as defined in paragraph 38, or Modern Apprentices who enrolled prior to 1 January 2014 and are continuing training as a Modern Apprentice on a Modern Apprenticeship programme.
27. The TEC may determine if any additional criteria are needed to select organisations to participate in the initial phase of the ITF direct-funding scheme, and apply those criteria in the assessment process.

***Industry trainee eligibility***

28. The TEC must not fund a TEO for a learner who does not meet the criteria to be an "industry trainee".
29. 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 his or her employer; or

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<sup>2</sup> An organisation as defined in section 159B(1)(c) of the Education Act 1989.

<sup>3</sup> Group training schemes are schemes that employ apprentices and place them with host employers who are qualified tradespeople who provide training for the apprentices.

- ii. a self-employed contractor working in New Zealand under an arrangement with an organisation in the nature of employment, who has a training agreement with that organisation; 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
- b) 16 years of age or over (unless the industry trainee meets additional eligibility criteria determined by the TEC).

***Programme eligibility***

30. Funding paid from the ITF under this funding mechanism may be used for the purpose of arranging training for:
- a) a National or New Zealand Certificate that:
    - i. has at least 40 credits; and
    - ii. leads to a certificate generally up to level 4 on the NZQF; or
  - b) 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 Unit Standards drawn from full qualifications for which the TEO has funding approval; and
    - iv. meets the minimum limits for progression from the programme to the completion of full qualifications specified by the 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 Unit Standards drawn from national qualifications for which the TEO has funding approval.
31. 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.
32. A qualification at level 1, 2, or 3 on the NZQF must include embedded literacy and numeracy.
33. A TEO must use the Literacy and Numeracy for Adults Assessment Tool to identify the literacy and/or numeracy needs of each industry trainee enrolled

in a programme at level 1 or 2 on the NZQF and to measure the industry trainee's progress.

34. The TEC may allow each TEO to spend a maximum of 10% of its allocated ITF funding on training at level 5 and above on the NZQF. The TEC may negotiate exceptions to this limit on a case by case basis, up to a maximum of 10% of the total ITF across the sector being allocated to training at level 5 and above on the NZQF.

*Health and safety and regulatory compliance learning may not be funded*

35. 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 qualification or programme designed primarily to equip a participant with the skills and knowledge he or she needs 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.
36. The TEC must not provide funding for a qualification 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<sup>4</sup>.

***New Zealand Apprenticeships***

37. 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;
  - 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.
38. In addition to the eligibility requirements for an industry trainee in paragraph 29, a New Zealand Apprentice must be:
- a) employed in the occupation for which he or she is training; and
  - b) supported by a training plan agreed by the trainee, the employer, and the organisation arranging the training, throughout the programme of training; and
  - c) enrolled in a programme of training that consists of either:

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<sup>4</sup> For the avoidance of doubt, subject to paragraph 36, health and safety and regulatory compliance learning may comprise part of a larger qualification that includes an appropriately wide range of skills.

- i. a qualification at level 4 on the NZQF that has a minimum of 120 credits<sup>5</sup>; 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.
39. The TEC must fund a TEO for an eligible New Zealand Apprentice at the rates specified in paragraph 19.
40. The TEC must approve, and maintain a register of, all New Zealand Apprenticeships.

### ***Modern Apprenticeships***

41. The TEC must not use the ITF to fund a TEO for a Modern Apprentice unless the Modern Apprentice was enrolled prior to 1 January 2014 and continues training as a Modern Apprentice on a Modern Apprenticeship programme.
42. The TEC must not approve, or use funding from the ITF for, any new Modern Apprenticeship programmes from 1 January 2014.
43. The TEC must fund a TEO for an eligible Modern Apprentice at the rate specified in paragraph 20 until the Modern Apprentice has completed his or her training, or until 31 December 2017.

### ***Activities eligible for funding from the ITF***

#### ***Arranging training***

44. The TEC may fund an ITO from the ITF under this funding mechanism to arrange training in respect of an industry trainee:
- a) in an industry for which the ITO is recognised by the Minister under the Industry Training Act 1992; or
  - b) in an arrangement approved by the TEC under the Industry Training Act 1992.
45. The TEC may fund an eligible organisation participating in the initial phase of the ITF direct-funding scheme from the ITF to arrange training.
46. 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 his or her employer that is intended to lead to the achievement of one or more of the qualifications and programmes set out in paragraph 30.

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<sup>5</sup> Additional qualifications at level 4 or Supplementary Credit Programmes may be added to a level 4 120-credit qualification to comprise part of a New Zealand Apprenticeship.



### *Industry training-related projects*

47. The TEC may, under this funding mechanism, fund industry training-related projects from the ITF for the following purposes:
- a) to meet costs associated with ensuring the integrity of the ITF including audits (up to \$150,000 per year, GST exclusive);
  - b) 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 per year, GST exclusive); and
  - c) to assist ITOs to undertake joint ventures or merge with each other to facilitate desirable structural changes in the sector, or to support research and workshops on key issues, such as improving ITO governance and effectiveness (up to \$1,000,000 per year, GST exclusive).

### **INDUSTRY TRAINING ORGANISATION (ITO) STRATEGIC LEADERSHIP FUND**

48. The TEC may fund an ITO from the ITO Strategic Leadership Fund under this funding mechanism, provided that the ITO is fully or provisionally recognised by the Minister under the Industry Training Act 1992.
49. The TEC must only use the ITO Strategic Leadership Fund to fund proposals for the development of new qualifications that the TEC expects will generate the greatest value in terms of the wider tertiary education system. The TEC must only fund a proposal that demonstrates:
- a) the development of a qualification or qualifications on the NZQF for which the ITO does not intend to manage the training arrangement itself;
  - b) evidence of industry support for the development of each qualification or qualifications; and
  - c) evidence of collaborative arrangements with providers willing to deliver each qualification or qualifications.

### **PART TWO: FUNDING CONDITIONS**

#### **General Conditions for off-Plan funding**

50. 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)**

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

### ***TEO ownership and subcontracting***

52. 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 an ITO fully or provisionally recognised by the Minister under the Industry Training Act 1992; or
  - b) in relation to an eligible organisation funded through the ITF direct funding scheme, meet the eligibility criteria specified in paragraphs 24 and 26, and any additional criteria determined and applied by the TEC under paragraph 27.
53. The TEC must attach to funding a condition that an ITO must not deliver training itself, and must not have any ownership stake in, or be a beneficiary of, an organisation with which the ITO arranges the delivery of training.
54. 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;
  - 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***

55. 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.

### ***Industry trainees***

56. 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 29 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 29 and 38 of this funding mechanism; and
  - c) each Modern Apprentice who is enrolled in a Modern Apprenticeship was enrolled in a Modern Apprenticeship programme prior to 1 January 2014, and meets and continues to meet the criteria specified in paragraphs 29 of this funding mechanism.

## ***Programmes***

57. 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 30 of this funding mechanism; and
    - ii. paragraph 38, clause c, 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 35 or 36 of this funding mechanism; and
  - e) includes embedded literacy and numeracy if that qualification is at level 1, 2, or 3 on the NZQF.
58. 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/or numeracy needs of each industry trainee enrolled in a programme at level 1 or 2 on the NZQF, and measure the industry trainee's progress.
59. 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.
60. 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.

## ***Performance***

61. 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.

## ***Support for New Zealand Apprentices***

62. The TEC must attach to funding a condition that a TEO that receives funding from the ITF to arrange New Zealand Apprenticeship training must ensure, as far as reasonably practicable, that the training, and every training agreement for a New Zealand Apprenticeship, is consistent with any code of practice for apprenticeship training approved by the Minister.
63. The TEC must attach to funding a condition that a TEO that receives funding from the ITF to arrange New Zealand Apprenticeship training must provide, or

procure, appropriate pastoral care and support for every New Zealand Apprentice for whom it is funded. The pastoral care must:

- a) have regard to the age and experience of each New Zealand Apprentice;
  - b) have regard to any approved code of practice; and
  - c) include at least four visits to the New Zealand Apprentice over a period of 12 months.
64. The TEC must attach to funding a condition that, when a TEO that receives funding from the ITF to arrange New Zealand Apprenticeship training helps a person who is younger than 18 years old enter into a training agreement for a New Zealand Apprenticeship, the TEO must, before the person enters into the agreement:
- a) advise the person that, if he or she is unsure about the effect or implications of the agreement, he or she should not enter into it without first seeking advice about doing so from an independent person; and
  - b) give the person a reasonable opportunity to seek that advice.

#### ***No other funding***

65. 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***

66. 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***

67. 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.
- 68. 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.
- 69. In the case of TEOs located in Christchurch whose training arrangements have been significantly affected by the earthquake of 22 February 2011 [or subsequent aftershocks], the TEC may waive the debt repayable by the TEO in full or in part.

***TEC administrative responsibilities***

- 70. 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.