MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Andrew Little	**Portfolio**	Workplace Relations and Safety
Title of Cabinet paper	**Equal Pay Amendment Bill: Outstanding Policy Issues** **Equal Pay Amendment Bill: Approval for Submission of a Supplementary Order Paper**	**Date to be published**	7 September 2020

List of documents that have been proactively released		
Date	**Title**	**Author**
17 February 2020	Equal Pay Amendment Bill: Outstanding Policy Issues	Office of the Minister of Workplace Relations and Safety Office of the Minister for Women
17 February 2020	Cabinet Minute – Equal Pay Amendment Bill: Outstanding Policy Issues (CAB-20-MIN-0031.01)	Cabinet Office
21 July 2020	Equal Pay Amendment Bill: Approval for Submission of a Supplementary Order Paper	Office of the Minister of Workplace Relations and Safety Office of the Minister for Women
21 July 2020	Cabinet Legislation Committee Minute – Equal Pay Amendment Bill: Supplementary Order Paper (LEG-20-MIN-0110)	Cabinet Office

Information redacted **YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of:

- confidential advice to Government
- free and frank opinions.

In Confidence

Office of the Minister for Workplace Relations and Safety

Office of the Minister for Women

Chair

Cabinet Legislation Committee

Equal Pay Amendment Bill: Approval for Submission of a Supplementary Order Paper

Proposal

1 This paper seeks approval for the submission of the attached Supplementary Order Paper (SOP) on the Equal Pay Amendment Bill (the Bill), to the Committee of the Whole House of Representatives following on from Cabinet decisions in February 2020. It also seeks agreement to additional penalty provisions consistent with the decisions made by Cabinet.

Background

2 The Equal Pay Amendment Bill sets out a practical and fair process for employees working in jobs predominantly performed by women to investigate whether their work is undervalued due to systemic sex-based discrimination. The Labour and Green Party Confidence and Supply Agreement commits the Government to make significant progress towards eliminating the gender pay gap in the core public sector this term, and to ensure that the wider public sector and private sector are on a similar pathway. We have been making significant progress towards this target with several significant settlements in the public sector. Robust and accessible pay equity processes are a critical tool in closing the gender pay gap across the economy. Achieving pay equity is likely to have a significant positive impact on the lives of those working in some of the lowest-paid occupations, as well as create flow-on effects to their whānau and wider community.

3 The Equal Pay Amendment Bill (the Bill) will amend the *Equal Pay Act 1972* (the *Act*) to introduce a new regime that allows employees to pursue a pay equity claim in line with New Zealand's existing employment relations framework. The Bill was introduced to Parliament in May 2018 and referred to the Education and Workforce Committee (the Select Committee) for consideration. The Committee reported back to the House with recommended changes on 14 May 2019, expressing unanimous support for the Bill.

4 After the Select Committee reported back, the New Zealand Council of Trade Unions (NZCTU) and BusinessNZ jointly approached Ministers asking us to recommend further changes to Cabinet so that so far as possible, the pay

equity bargaining framework should mirror the framework for collective and individual bargaining under the *Employment Relations Act 2000* (the ERA). The social partners' view is that this is more consistent with the recommendations of the tripartite Reconvened Joint Working Group.

5 On 17 February 2020, Cabinet agreed to make changes to the Bill that would move the pay equity framework in the Bill closer to the ERA bargaining framework [CAB Min 18/0250 refers]. The two most significant policy changes were to remove the requirement to consolidate all pay equity claims within an employer (so that union and individual pay equity claims could progress separately), and to enable unions to raise a single claim across multiple employers. A number of other policy proposals were agreed to enable these changes to be realised, as well as a number of smaller changes.

6 The changes to the Bill recommended by the Select Committee were incorporated into the Bill as reported back to the House for the Bill's Second Reading. However, further revisions were still necessary to more closely align the framework in the Bill with the ERA bargaining framework.

7 We now present to Cabinet Legislation Committee a SOP which makes further revisions and refinements to the Bill, implementing the decisions made by Cabinet on 17 February 2020.

8 A summary of the Cabinet decisions reflected in the SOP is outlined below.

Removing requirement to consolidate claims

9 To further align pay equity bargaining with existing bargaining processes, Cabinet has agreed to remove the requirement to consolidate all pay equity claims for the same work within the employer, and allow individual and union claims to progress separately. This is more consistent with the approach taken to collective bargaining under the ERA and in international law.

10 This means that individuals can raise their own pay equity claim in workplaces where there is no union, or where they choose not to be represented by a union. Individual employees would bargain directly with their employer about their pay equity claim, as they would for an individual employment agreement under the ERA.

11 Cabinet has agreed to the following changes to the Bill to implement this proposal:

Enable unions to raise claims

12 The Bill will make it simpler for unions to raise pay equity claims on behalf of their members, by removing the requirement that they obtain each individual member's authorisation to take a claim. This will enable a more efficient process for raising claims that will benefit both employees and employers, and align with existing bargaining practices.

Consolidation of multiple union claims

13 Cabinet has agreed that multiple union claims raised for the same work within the employer must still be consolidated. Where more than one union has raised a claim that relates to the same or substantially similar work, they would be required to collectively agree on how the claim would progress.

Require union representation of non-union employees

14 Cabinet has agreed that non-union employees performing the same or substantially similar work for the employer will be included as part of a union pay equity claim unless they choose to opt-out. The opt-out notice must meet minimum requirements set out in the legislation. These requirements will ensure that the employer makes clear to affected non-union members that:

- unless the employee takes a positive action to opt-out in writing, they will be represented in the claim by the union
- if the employee does not opt-out within 20 working days of receiving the notice, their details will be passed to the union(s) for representation purposes
- if the employee has not opted-out before a settlement is agreed or determined, they will no longer have the option of taking an individual claim relating to pay equity
- no fee is required for the employee to be included in the claim or offered the benefit of the union settlement.

15 The employee must signal their intent to opt-out to the employer in writing, and also to the union if they opt-out after their information has been shared with the union. In requiring an employer to share non-union member information with the union, the expectation is that these employees will be represented by the union in bargaining.

16 To implement the decision made by Cabinet, we have decided to prescribe an 'endorsement process' through which the union must secure (union and non-union) employee mandate before they can sign the settlement agreement. This requirement aligns with the ratification process requirement under section 51 of the ERA. Unions are required to ensure that the endorsement process provides non-union members with an opportunity to vote, and that their votes have equal weight to the votes of union members.

17 We have also agreed that the Bill will prescribe that the relationships covered by the duty of good faith in section 4 of the ERA includes the employment relationship between a union and a non-member of the union represented in a union-led pay equity claim. This includes, inter alia, a duty for unions to be open and communicative and not to mislead or deceive non-union members.

Protections for individual bargaining

18 Cabinet has agreed to amend the Bill to provide a protection against unfair bargaining that is similar to that provided for in the ERA. This will mitigate the risk that vulnerable employees may be induced into agreeing to terms and conditions of a pay equity settlement which are unfair, due to the imbalance in bargaining power between employers and employees.

19 The Bill will permit individual employees to challenge pay equity settlement agreements on the basis that the bargaining process was unfair, where unfairness is based on sections 68 and 69 of the ERA (which apply to bargaining for an individual employment agreement). Section 68 of the ERA states that bargaining for an individual employment agreement is unfair if the employer is aware that certain factors are present, such as the diminished capacity of the employee, the presence of undue influence or duress, or the lack of opportunity to seek advice. If proven, the Authority may cancel or vary the settlement and award compensation where appropriate.

20 To implement the decisions made by Cabinet, we have decided to clarify that the protections afforded for individual bargaining under ERA section 63A will apply to variations to individual employment agreements that arise from pay equity settlements.

Require employers to automatically offer the terms of a union pay equity settlement to other employees

21 Cabinet has agreed a change to the Bill to require employers to offer any pay equity settlement negotiated by a union to other affected employees. Therefore, after a union settlement is reached, an employer is required to offer the benefits of that settlement to all employees performing the work relating to the claim, who were not represented in the claim. Employees will have the ability to decline the offer if they wish to retain their right to raise a separate pay equity claim and settle it individually.

22 If the Bill remained silent on extension, and there were multiple settlements (individual and union) negotiated for the same work, it would be up to the employer to decide which settlement to offer to other current and future employees. This may mean, for example, that only some terms of a union settlement are passed on to non-union members, or that a union settlement does not get extended to non-union employees at all.

23 This change recognises pay equity as an issue of systemic sex-based discrimination, affecting both union and non-union members. As such, where a union settlement has addressed sex-based undervaluation in the remuneration for the work, it should be offered to all employees performing that work within the employer. For both employees and employers it also makes sense to have consistent pay rates, and to reduce the costs of concluding multiple settlements within an employer.

Enable unions to raise a single claim across multiple employers

24 Under the Bill as reported back from Select Committee, claimants do not have a say in whether multiple employers consolidate, and they do not have the ability to require employers to do so. Essentially, multi-employer consolidation is at the discretion of the employers alone.

25 In consultation, the NZCTU and BusinessNZ expressed the view that multi-employer pay equity bargaining should be more closely aligned with the MECA bargaining processes under the ERA.

26 Cabinet has agreed to amend the Bill to provide an ability for unions to raise a pay equity claim across multiple employers. This change will align multi-employer pay equity bargaining more closely with the Multi-employer Collective Agreement (MECA) bargaining provisions in the ERA.

Unions have an ability to request consolidation across multiple employers at the point of raising a claim

27 Cabinet has agreed to enable unions to raise a pay equity claim across multiple employers where they have members performing the work that is the subject of the claim, in advance of the claim being agreed to be arguable. Employers may opt-out of the multi-employer claim if they have genuine reasons, based on reasonable grounds, until the point of settlement. The Bill will not provide a mechanism for employers or employees to consolidate individual, non-union claims across multiple employers. Subsequent parties can only join the multi-employer claim with the agreement of all parties, and only where the claim is arguable.

28 This proposal will also be reflected in the transitional provisions to the Bill (current multi-employer claims could transition over with their existing parties and new parties may only be added where all parties agree).

Default outcome of a multi-employer bargaining scenario

29 Under the Bill as reported back from Select Committee, when multiple employers settle, they must enter into separate pay equity settlement agreements at the conclusion of bargaining. In aligning further with the MECA bargaining approach, Cabinet has agreed to amend the Bill to provide that the default outcome of a multi-employer bargaining situation is the settlement of a single multi-employer pay equity agreement (with an ability for employers to opt-out if they have genuine reasons, based on reasonable grounds).

30 This will ensure more consistent terms of settlement for a workforce that was the subject of the consolidated claim. It will still be possible for multi-employer pay equity settlements to include variations for different employers, taking into account the possibility that there may be employers with different characteristics.

Risks and mitigations

31 The key risks and mitigations of the changes to the bargaining structure are:

- The possibility of multiple settlements within employers could lead to more bargaining and different rates. This risk could be mitigated by providing that non-union employees will be covered by the union claim (unless they opt-out) or be offered the benefits of that settlement.

- Permitting greater consolidation of claims between employers (i.e. multi-employer pay equity claims) may result in larger, more complex claims. The progress of such claims could be facilitated by allowing employers the ability to extend the timeframe for making a decision on whether a claim is arguable (to a maximum of 80 working days), and requiring unions to describe how the work of the claim is the same or substantially similar at the point of raising.

Cabinet also agreed to a number of more discrete changes

32 Cabinet has also agreed to a range of other, more discrete and technical changes, that are reflected in the SOP, including:

- Changes to the procedural timeframes for deciding when a claim is arguable and for notifying affected employees

- Removing the ability to use an alternative process in assessing the claim

- Lowering the threshold for existing claims to continue under the Act from being 'determined' to when they are being 'heard'.

Two further penalties proposed to give effect to existing Cabinet decisions

33 In designing changes to the Bill to reflect the Cabinet decisions that were made in February 2020, we have identified the need for two additional penalties: a penalty for employer non-compliance with the minimum requirements of the opt-out notice and a penalty for union non-compliance with the minimum requirements of the endorsement process.

34 Cabinet noted in 2018 when the Bill was introduced that Cabinet had previously agreed to establish penalties in the Bill which were consistent with the ERA [CAB Min 18/0250 refers]. However, the penalties we propose are more specific than the general penalties in the ERA. We have tested these penalties with the NZCTU and BusinessNZ and they have indicated they are comfortable with these.

Penalty for employer non-compliance with notification requirements

35 The notification process is a critical part of the system's 'opt-out' design. Non-union employees will be automatically captured in a union settlement unless they opt out ahead of time, so it is important that these employees are notified with at least the minimum contents of the opt-out notice (such as what employees need to know in order to be informed enough to make a decision about whether to opt-out). It will also be important for employers to provide accurate information in the notification notice, so that employees can act in

their best interest even if they act based only on the information provided by their employer.

36 Because of the importance of accurate notification, we consider it would be appropriate to create a penalty for situations where employers do not comply with the minimum requirements or where they provided misleading information.

37 We recommend that a penalty may be awarded by the Employment Relations Authority where an employer knowingly or recklessly fails to notify affected employees or provides misleading information. The level of the penalty will be up to $10,000 in the case of an individual, or up to $20,000 in the case of a company or body corporate. This is consistent with the penalty amounts listed in the ERA (section 135) and equivalent to the other penalties for non-compliance listed in section 18 of the Bill.

Penalty for union non-compliance with minimum requirements of the endorsement process

38 We have proposed that there should be a minimum endorsement process stipulated in the Bill whereby non-union members (that have not opted out of the union claim) and union members are given the opportunity to vote on the proposed settlement agreement. The endorsement process requirements ensure that the process is fair and equal for both union and non-union members, for example, by requiring that the vote of a union and a non-union member carries equal weight. The Bill also requires certain information to be provided to affected employees ahead of the endorsement vote taking place, such as a copy of the proposed settlement agreement.

39 Given the significance of the minimum endorsement process requirements we consider that a penalty is warranted where these are not followed. We propose that the Employment Relations Authority may award a penalty where a union knowingly or recklessly breaches the requirements. We do not think minor or accidental breaches should attract a penalty.

40 We propose that the level of the penalty will be up to $10,000 in the case of an individual, or up to $20,000 in the case of a company or body corporate. This is consistent with the penalty amounts listed in the ERA (section 135) and equivalent to the other penalties for non-compliance listed in section 18 of the Bill.

Referral to select committee

41 PCO has recommend that the extent of the changes made in this SOP mean the SOP should be referred back to a Select Committee for further consideration to mitigate the risk of post-enactment amendments being required. Our view, however, is that this risk has been sufficiently mitigated through close consultation with Business New Zealand and the CTU on the changes to this SOP.

Next steps

42 Cabinet has agreed that the Cabinet Legislation Committee should have power to act in relation to these proposals [CAB Min 18/0250 refers].

43 If the Cabinet Legislation Committee agrees to the proposals in this paper, the SOP will be submitted for consideration to the Committee of the Whole House. We intend for the Bill to proceed through its remaining stages in the week of 20 July 2020.

Financial Implications

44 The Crown faces fiscal liability under the current court-based pay equity regime and this liability will remain in the proposed pay equity legislation.

45 The proposed changes to the claims processes may have fiscal implications if they lead to changes in the bargaining structure. Free and frank opinions [redacted]. This could result in administrative efficiencies in bargaining which may lower costs but may alter bargaining dynamics, which could impact settlement outcomes.

46 There is a risk that agencies will have to progress with multiple (individual and union) claims for the same workforce at once, for which they are not resourced to do, though some of the proposed changes (such as including non-union members in union claims) will help to mitigate these risks.

Economic impacts for women

47 Addressing systemic gender-based undervaluation through pay equity settlements will result in workers in female-dominated industries being paid more equitably. This is likely to lead to reduced turnover and improved productivity in these industries, though the impact will be difficult to quantify. Economically empowering these workers, most of whom are women, will enable them to better meet their needs and those of any financial dependents (for example, many women in low-paid jobs are supporting children and other family members). This aligns with the Government's priorities for wellbeing.

Human rights

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

48 This Bill supports New Zealand's obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), notably Article 2(f) – "to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, *customs and practices* which constitute discrimination against women" [emphasis added] and Article 11(d) – "The right to equal remuneration, including benefits, and to equal treatment in

respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work". Furthermore, improving economic outcomes for women through pay equity is likely to improve women's enjoyment of other human rights required by CEDAW, such as participation in public life and access to adequate living conditions, as women will be more likely to have sufficient income to meet their needs and those of their whānau.

Relevant International Labour Organisation (ILO) Conventions and Recommendations

49 This Bill supports New Zealand's obligations under ILO Convention 100 on Equal Remuneration (ILO C100) and Convention 111 on Discrimination (Employment and Occupation) Convention (ILO C111). New Zealand is obligated by Article 2(1) of ILO C100 to, "ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value" and, by Article 2 of ILO C111 to "pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof."

New Zealand Bill of Rights Act

50 The Ministry of Justice has undertaken an assessment of whether the Bill is consistent with the Bill of Rights Act 1990 (the BORA) and has provided advice to the Attorney-General. Advice provided to the Attorney-General is generally expected to be available on the Ministry of Justice's website.

51 The proposal that requires non-union members to 'opt-out' of union representation may pose some freedom of association issues, as employees would be obliged to take action to not be represented by the union and retain their individual right to take a claim (up to the point that the settlement is ratified). In our view, this potential limitation on the freedom of association is in due proportion to the importance of the objective and does not limit section 19(1) of the BORA any more than reasonably necessary.

52 We note that the proposals in this paper are particularly directed at addressing structural discrimination that prevents full participation in society. The proposals aim to address those structural barriers in a way that is most likely to see that sex-based discrimination leading to the undervaluation of female-dominated work is addressed. The proposals assume that a union will be better equipped to represent pay equity claimants in bargaining, and that this is likely to secure more consistent and robust pay equity outcomes for employees.

53 In our view, therefore, any such limitation on the freedom of association is justified under section 5 of the BORA due to advantages in the form of both increased effectiveness and efficiency for pay equity claimants. We consider that: It is a necessary restriction to implement a scheme to address the systemic undervaluation of women's work through an accessible bargaining framework.

54 The limit is in due proportion to the importance of the objective and does not limit section 19(1) of the BORA any more than reasonably necessary. Specifically, it does not require non-union employees to become union members, or pay fees, in order to benefit from a union-negotiated pay equity claim settlement, and provides an avenue for them to opt-out of union representation.

55 It provides an individual avenue for bargaining the claim rather than requiring all claimants to consolidate their claims into a single process within the employer (as per the status quo).

56 This limitation is consistent with accepted jurisprudence that the rights affirmed in the BORA are not absolute and may be subject to reasonable limits. The courts have recognised that "individual freedoms are necessarily limited by membership of society and by the rights of others."

Privacy Implications

57 The Privacy Commissioner was briefed on the issue of an 'opt-out' or 'opt-in' design for the sharing of employee information with unions. The Commissioner considered that an 'opt-in' approach would better protect the privacy of individuals and that the 'opt-out' approach may infringe on individual privacy.

58 The 'opt-out' design assumes that the majority of employees would benefit from union representation in pay equity bargaining, so the choice to 'opt-out' would involve less compliance costs than one to actively 'opt-in'. We have set out several requirements for the opt-out notification to better ensure that employees understand the implications of their decision to remain in the union claim and have their contact information passed on.

Gender Implications

59 Amending pay equity legislation will have significant gender implications. Updating the *Equal Pay Act 1972* to implement pay equity and shift it from a litigation framework to a bargaining framework in line with the Employment Relations Act and other law, may have gender implications for employees and employers. Specifically, due to the lower threshold to raise a pay equity claim, we anticipate that women who had previously chosen not to notify their employer of a pay equity concern may now be more comfortable to do so. The increase in remuneration that could result from such claims is likely to be highly beneficial for those women. These implications may be larger for individual and small group pay equity claimants including low-paid or vulnerable employees, and SMEs. Information, guidance and support will be important for parties to identify and progress pay equity claims.

60 Women employees in undervalued female-dominated jobs, especially women facing intersecting forms of discrimination, may encounter barriers to raising and progressing pay equity claims. These include: wāhine Māori, Pacific women, disabled women, older women, rural women, lesbian, bisexual and transwomen and others. These circumstances will be taken into account when

agencies are developing guidance, tools and information to support the implementation of the Bill.

61 The systemic underpayment of wāhine Māori has been noted as a significant issue in statements of claim as part of the Mana Wāhine Kaupapa Inquiry. As a Treaty partner, the Crown has a responsibility to ensure that the Bill will deliver a system to remove the undervaluation of work predominantly performed by Māori women, rather than further entrenching existing inequalities between groups of women.

Disability perspective

62 Disabled women tend to have lower rates of employment and labour market participation than other women, and may be overrepresented among low-paid employees including in female-dominated workforces. There will be many women working in the disability sector in a range of roles which may involve pay equity issues.

63 Disabled people doing work that is predominantly done by women need accessible assistance, guidance and services to enable them to fully participate in a claims-based pay equity regime. Likewise, disabled employers responding to pay equity claims may require accessible assistance and information to respond to claims.

64 The threshold (i.e. a claim must be arguable) for entering the pay equity bargaining process is intended to be low which will make it easier for claimants, including disabled people, to make a claim. In addition, the range of accessible formats for Employment Services products will be available for products relating to pay equity, including PDFs that are readable by web browsers.

Impact analysis

65 A Regulatory Impact Analysis (RIA) was prepared in accordance with the necessary requirements and submitted at the time that the Economic and Development Committee approved policy relating to the Bill in May 2019 [DEV Min 18/0104 refers]. An updated RIA was submitted to Cabinet in February 2020 when Cabinet approved policy relating to the SOP [CAB-20-MIN-0031.01 refers].

Compliance

66 The Bill complies with each of the following:

a. The principles of the Treaty of Waitangi

b. The rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* and the *Human Rights Act 1993* (refer to the Human Rights section for further information)

c. The disclosure statement requirements (a disclosure statement has been prepared and is attached to the paper)

d. Relevant international standards and obligations including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Labour Organisation Equal Remuneration Convention

e. The Legislation Guidelines on the Process and Content of Legislation (2018 edition), which are maintained by the Legislation Design and Advisory Committee (LDAC). The transitional provisions in the Bill depart from the default approach in the guidelines by retrospectively applying new legislation to matters that are the subject of ongoing or potential litigation, and preventing a person from relying on a right or defence that existed at the time they undertook the conduct that those rights or defences related to. We consider that the transitional provisions are necessary and justified to ensure that the policy objective of the new legislation to shift pay equity into a bargaining framework is achieved, including to limit pay equity back pay claims which do not involve individual blameworthiness on the part of the employer.

Consultation

67 This paper was prepared by the Ministry of Business, Innovation and Employment and the Ministry for Women. The following agencies were consulted on this paper: the Department of the Prime Minister and Cabinet, the Treasury, the Ministry of Health, the Ministry of Social Development, Te Puni Kōkiri, the Office of the Privacy Commissioner, the Inland Revenue Department, Ministry for Primary Industries, the Ministry for Pacific Peoples, Statistics New Zealand, Oranga Tamariki, the State Services Commission, the Ministry of Justice, and the Ministry of Education. Feedback received from these agencies has been reflected in the paper.

68 The NZCTU and BusinessNZ have been consulted on a version of the SOP attached to this paper.

Binding on the Crown

69 Cabinet has previously agreed that the Bill will be binding on the Crown [CAB Min 18/0250 refers]. The legislation does not create a new agency or amend law relating to existing agencies.

Commencement of legislation

70 The Bill will come into force three months from the day after the date of Royal assent. Although the Bill was originally intended to come into force the day after the date of Royal Assent, due to the substantial changes in the SOP, employees and employers will need additional time to familiarise themselves with the Bill's processes. An additional three months will also ensure that the majority of the guidance and tools for the legislation will be available at the point of enactment.

Parliamentary stages

71 The Bill will be considered by the Committee of the Whole House on Wednesday 22 July, and have its third reading in the week of 20 July.

Proactive Release

72 This paper will be released in accordance with the Government's proactive release policy.

Recommendations

The Minister for Workplace Relations and Safety and the Minister for Women recommend that the Committee:

1. **Note** that the proposed priority for the Equal Pay Amendment Bill is 2 on the 2020 Legislation programme (must be passed in the year)

2. **Note** the attached Supplementary Order Paper amends the Equal Pay Amendment Bill to reflect:

    a. Cabinet decisions made on 17 February 2020 and decisions we made on issues which arose during the drafting process which are consistent with Cabinet decisions [CAB Min 18/0250 refers]; and

    b. Two additional changes for which I seek Cabinet agreement [recommendations 4 and 5]

3. **Agree** that the attached Supplementary Order Paper to the Equal Pay Amendment Bill be released for the Committee of the Whole House stage of the Bill

4. **Agree** to create a specific penalty for employer non-compliance with the minimum requirements of the opt-out notice

5. **Agree** to create a specific penalty for union non-compliance with the minimum requirements of the endorsement process

6. **Authorise** the Minister for Workplace Relations and Safety and the Minister for Women to make decisions, consistent with the policy proposals in this paper and recommendations, on any issues that arise during the drafting process

7. **Note** the Bill will come into force three months from the day after the date of Royal assent.

Authorised for lodgement
Hon Iain Lees-Galloway
Minister for Workplace Relations and Safety

Authorised for lodgement
Hon Julie Anne Genter
Minister for Women