MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

BRIEFING

Fair Pay Agreements – Penalty Levels

Date:	5 March 2021	**Priority:**	Urgent
Security classification:	In Confidence	**Tracking number:**	2021-2528

Action sought		
	Action sought	**Deadline**
Hon Michael Wood **Minister for Workplace Relations & Safety**	Decide the maximum level for penalties that the Employment Relations Authority can apply in the FPA system	10 March 2021

Contact for telephone discussion (if required)				
Name	**Position**	**Telephone**		**1st contact**
Tracy Mears	Manager, Employment Relations Policy	04 901 8438		✓
Hannah Adams	Senior Policy Advisor	04 896 5262		

The following departments/agencies have been consulted
Ministry of Justice

Minister's office to complete:

- ☐ Approved
- ☐ Noted
- ☐ Seen
- ☐ See Minister's Notes
- ☐ Declined
- ☐ Needs change
- ☐ Overtaken by Events
- ☐ Withdrawn

Comments

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Purpose

This briefing provides advice on the maximum level of penalties that the Employment Relations Authority (ER Authority) can apply for breaches of particular duties and requirements in the Fair Pay Agreement (FPA) system.

Executive summary

We recommended the maximum penalty that the ER Authority is able to apply should be consistent with the maximum level under the Employment Relations Act (ER Act): $10,000 for an individual and $20,000 for a company or other corporation. In response to this advice, you indicated that you consider the maximum penalty level should be doubled.

We have reviewed similar systems as a basis for considering the maximum penalty level. The systems that create obligations in relation to employment terms either allow a penalty to be imposed under the ER Act by the ER Authority or replicate the same maximum levels (e.g. Holidays Act 2003, Minimum Wage Act 1983, and Equal Pay Act 1972).

The breaches within the health and safety at work and immigration systems that appear most similar with the breaches where a penalty would apply under the FPA system include maximum fines of between $5,000-$20,000 for an individual and $25,000-$100,000 for a company. The penalties within these systems, however, have a different policy intent to those in the FPA system, are more directly linked to harm, and are applied in a criminal (rather than civil) jurisdiction.

Increasing the maximum penalties available for the specified breaches in the FPA system will create an inconsistency with the penalties available for similar breaches in other systems that relate to employment terms. It may be possible to make a case for higher penalties for breaches during the development of FPA on the basis that behaviour that negatively affects FPA bargaining, or on workers' ability to participate, may have a greater and wider impact (e.g. compared to collective bargaining) due to the universal coverage of an FPA once in force.

Including higher penalties for breaches once an FPA is in force would, however, create significant inconsistencies between the related systems. For example, it would mean that an employer that did not comply with the terms set by an FPA could be subject to a greater penalty than an employer who did not comply with minimum wage or leave entitlements set by legislation.

We continue to consider the penalties in the FPA system should be consistent with those in the employment relations system and have the same maximum penalty level (option one). These penalty levels are intended to be reviewed in the employment dispute resolution system review [refer briefing 2021-1104].

An alternative option could be to increase the penalties in relation to breaches during the development of an FPA (option two). This would create some inconsistency between the systems, but may be justified by the different nature and impact of the systems. Under both option one and two, serious breaches of an FPA by an employer could still be subject to higher penalties through either the cumulative impact where penalties apply per employee, or pecuniary penalties (which the Labour Inspectorate can apply to the Employment Court for).

If you decide to increase the penalties, we considered your preference of doubling them the most suitable approach. This would place the penalties within the lower end of the range of penalties for similar types of breaches in the health and safety at work and immigration systems, which seems appropriate as these penalties are being applied in a civil jurisdiction and the breaches are less directly linked to harm. Any greater increase in the penalty levels would need careful consideration given the nature of the ER Authority (compared to a court) and result in the maximum penalty applied for an initial breach being higher than the penalty for a breach of a compliance order.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Note** we have recommended that the Labour Inspectorate's enforcement tools, including pecuniary penalties with much higher maximum levels, be available for more serious breaches of certain terms of an FPA [refer briefing 2021-2155].

Noted

b **Note** the maximum penalties that apply for a breach can sometimes apply per affected employee, so could result in a much higher potential maximum penalty.

Noted

c **Note** increasing the penalties with the FPA system will create regulatory issues as different penalties would apply for similar behaviour.

Noted

d **Agree** to either:

Option 1: Include the same maximum penalty level in the FPA system as the Employment Relations Act 2000 ($10,000 for an individual and $20,000 for a company or other corporation) and review the maximum penalty level as part of the employment dispute resolution system review (**MBIE preferred)**.	*Yes / No*
Option 2: Increase the maximum penalty level that applies for breaches of requirements during the development of an FPA: a. An employer breaching its duty of good faith duty by doing anything with intention of inducing employee not to be involved in initiation of an FPA, FPA bargaining or the FPA ratification vote. b. An employer intentionally or recklessly failing to comply with the requirements to notify affected workers of the initiation, ratification and renewal of an FPA. c. An employer intentionally or recklessly failing to provide the contact details of affected workers to the union(s) representing them. d. A breach of the duty of good faith by any party that it applies to, where they have engaged in behaviour that is deliberate, serious, and sustained; or intended to undermine FPA bargaining. e. An employer unreasonably withholding consent in relation to a request by a union representative to enter a workplace; or refusing to permit entry for, or obstructing, a union representative who is entitled to enter a workplace. f. An employer failing to allow an affected worker to attend the minimum paid meetings they are eligible for in relation to FPA bargaining. g. A union intentionally or recklessly providing inaccurate information as part of the application for an FPA to be initiated. h. A union, employer bargaining representative, or employer intentionally or recklessly providing inaccurate information as part of the ratification evidence.	*Yes / No*
Option 3: Increase the penalties for all breaches in the FPA system where the Employment Relation Authority can apply a penalty (including non-compliance with an FPA once it is in force).	*Yes / No*

e **If you select option 2 or 3, agree** to increase the maximum penalty to $20,000 for an individual and $40,000 for a company or other corporation.

Agree / Disagree/ Not applicable

f **Note** an increase in the maximum penalties may attract a higher level of scrutiny from a regulatory design and/or justice perspective as it shifts away from utilising existing structures.

Noted

Correction on earlier advice [refer briefing 2021-1989]

g **Agree** to remove 'obstructing any Labour Inspector' from the list of breaches that the Employment Relations Authority can apply a penalty for as this would result in an inconsistency with the Employment Relations Act 2000. Behaviour of this type will be covered by the provision in the Employment Relations Act 2000 enabling a fine via the Employment Court for any obstruction of a Labour Inspector while they are lawfully exercising or performing a power, function or duty.

Agree / Disagree

Tracy Mears
Manager, Employment Relations Policy
Workplace Relations & Safety Policy, MBIE

05 / 03 / 2021

Hon Michael Wood
Minister for Workplace Relations & Safety

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Background

1. A number of policy decisions are still needed on design features of the proposed Fair Pay Agreement (FPA) system, including some key features, in order to obtain sufficient decisions for PCO to begin drafting a Bill [refer briefing 2021-0627].

2. You have requested advice on the remaining design features be provided to you so that Cabinet agreement to the FPA system and approval to draft can be sought in April 2021.

3. We provided advice on the compliance responses that parties could seek via the Employment Relations Authority (ER Authority) (refer briefing 2021-1989). These are the ability to order compliance and apply financial penalties. These are in addition to the responses and remedies available via the employment dispute resolution system (which will also apply in the FPA system).

4. We recommended the maximum penalty level be consistent with the Employment Relations Act (ER Act): $10,000 for an individual or $20,000 for company or other corporation. You have indicated that you consider this level to be too low and should be doubled. We agreed to look at other similar systems and provide advice on the maximum penalty level.

5. Subsequent to providing the advice on penalties via the ER Authority, we discussed with you whether FPAs should be treated as a minimum standard. You indicated your preference that the FPA be treated as a minimum standard and accepted that some, but not all, of the terms and conditions of the FPA would be appropriate to be enforced by the Labour Inspectorate.

6. We have now provided more detailed advice on the proposed role of the Labour Inspectorate in enforcement of certain terms of the FPA and their wider compliance role in the FPA system [refer briefing 2021-2155]. We have recommended that the Labour Inspectorate have a role in enforcing: the FPA base wage(s), incremental adjustments to the FPA base wage(s), minimum leave entitlements that build on existing leave entitlements under the Holidays Act 2003, and overtime and penalty rates.

7. Therefore the Labour Inspectorate's wider set of compliance tools would be available for non-compliance with these terms of an FPA. These compliance tools include the ability to apply to the Employment Court where there are serious breaches of these terms that could attract severe consequences including a:

    a. pecuniary penalty of up to $50,000 for an individual; or $100,000 or three times the amount of the financial gain made by the body corporate from the breach for a body corporate;

    b. compensation order to recompense impacted employees;

    c. banning order that bans an employer from the labour market for up to 10 years.

Amendment to previous advice on the behaviour where a penalty via the ER Authority should apply

8. The advice on additional compliance responses via the ER Authority included a list of the compliance breaches that a penalty would apply to [refer briefing 2021-0627]. This list included: "Obstructing any Labour Inspector while the Labour Inspector is lawfully exercising or performing any power, function, or duty in relation to FPAs (if applicable)."

9. We have subsequently realised that under the ER Act obstruction of a Labour Inspectorate is not covered by a penalty via the ER Authority, but by a fine via the Employment Court (s235). Our intention is to be consistent; therefore, we recommend this type of non-compliance is removed from the list of breaches where the ER Authority can apply a penalty. The briefing on enforcement [refer briefing 2021-2155] has recommended that the Labour Inspectorate be

able to enforce particular terms of an FPA. Therefore, the offence relating to the obstructing a labour inspector while they are lawfully exercising or performing a power, function or duty (and the associated fine) would automatically apply.

Comparison with similar systems

Other systems that create obligations in relation to employment terms and conditions apply the same penalty levels and the ER Act

10. The systems that create obligations in relation to employment terms and conditions either allow a penalty to be imposed under the ER Act by the ER Authority or replicate the same maximum levels.

11. The same maximum penalties as the ER Act, therefore, apply in the following legislation:

    a. Holidays Act 2003

    b. Minimum Wage Act 1983

    c. Wages Protection Act 1983

    d. Equal Pay Act 1972

    e. Support Workers (Pay Equity) Settlements Act 2017

    f. Parental Leave and Employment Protection Act 1987.

Other systems that include obligations for employers in relation to workers include higher penalties, but these are criminal sanctions and more directly related to harm

12. The Health and Safety at Work Act 2015 includes a range of criminal offences which can result in a fine and/or term of imprisonment. It includes high sanctions for reckless conduct in respect to health and safety duties by companies (up to $3 million). A conviction for a failure to comply with a health and safety duty (that is not covered by the higher sanctions for reckless conduct or failure that exposes an individual to risk of death or serious injury of illness) can result can result in a fine of $50,000 for an individual who is not a Person Conducting a Business or Undertaking (PCBU) or officer of a PCBU, $100,000 for an individual who is a PCBU or officer of a PCBU, or $500,000 for any other person (i.e. a company). These higher fines reflect the risk of harm, which is greater, and more direct, than the risk of harm that could result from a breach of an FPA requirement (particularly those in relation to the bargaining process). It is also intended to provide a strong deterrent to ensure that the PCBU does everything possible, within reason, to minimise harm in the first place.

13. Offences within the Health and Safety at Work Act 2015 that potentially could be considered to have some similarities to the duties and requirements that a penalty would apply in the FPA system (although these are more directly linked to harm) include a failure:

    a. To notify a notifiable event: a fine not exceeding $10,000 for an individual or $50,000 for any other person (i.e. a company).

    b. To keep required records: a fine not exceeding $5,000 for an individual or $25,000 for any other person.

    c. To engage with workers who carry out work or are directly impacted by a work health and safety matter or the duty to have worker participation in the process: a fine not exceeding $20,000 for an individual or $100,000 for any other person.

    d. To assist (or obstruction of) an inspector: a fine not exceeding $10,000 for an individual or $50,000 for any other person.

e. To comply with a duty or obligation set via regulation: The Act enables the regulations to include fines not exceeding $50,000.

f. In relation to adverse conduct for a prohibited health and safety reason (including misrepresentation about a person's rights or obligations, ability to participate in a process or make a complaint under the Act): a fine not exceeding $100,000 for an individual or $500,000 for any other person.

14. The Immigration Act 2009 also includes criminal sanctions. The highest sanctions relate to behaviour intended to assist someone to remain or enter unlawfully in New Zealand for material benefit (imprisonment for a term not exceeding 7 years and/or a fine not exceeding $100,000).

15. The penalties that can apply to employers are:

a. $50,000 for allowing or continuing to allow any person to work in that employer's services, knowing that the person is not entitled to under the Immigration Act

b. $10,000 for allowing a person who is not entitled under this Immigration Act to work in the employer's service to do that work

c. $100,000 (and/or imprisonment for a term not exceeding 7 or 5 years depending on the type of worker/employee impacted) years for conviction of an offence in relation to exploitation of unlawful employees and temporary workers.

16. The penalties within the health and safety at work and immigration systems have a different policy intent to those in the FPA system, are more directly linked to harm, and are applied in a criminal (rather than civil) jurisdiction. With these caveats in mind, the breaches that would appear to best align to the type of breaches where penalties would apply to under the FPA system include maximum fines of between $5,000-$20,000 for an individual and $25,000-$100,000 for a company (e.g. notification failures or failure to engage with workers impacted by a health and safety matter).

17. The Fair Trading Act 1986 is a non-employment system that could be considered to have some comparative elements (although its penalties are also applied in a criminal jurisdiction). The breaches that would appear to best align to the type of breaches where penalties would apply to under the FPA system are those in relation to consumer information standards. A breach of these can result in a fine of up to $10,000 for an individual or $30,000 for a body corporate.

18. The civil systems we reviewed applied much higher penalties, but these were pecuniary penalties that could be applied for via the District Court of High Court (e.g. Financial Markets Conduct Act 2013 and Commerce Act 1986). As such, they are more comparable to the pecuniary penalties that the Labour Inspectorate can apply for via the Employment Court and are not a relevant comparator for the penalties that the ER Authority can apply.

Improvements have been made to the compliance tools under the ER Act and a review of the dispute resolution system is planned

19. In 2011 the maximum penalty under the ER Act was increased from $5,000 to $10,000 for an individual and from $10,000 to $20,000 for a company or other corporation.

20. In 2016, an Employment Court decision on *Borsboom* (*Labour Inspectorate) vs Preet Pvt Limited*[1] clarified the methodology in principle that the ER Authority and Employment Court should follow in when determining the appropriate penalty for breaches. This included guidance of the globalisation of multiple breaches impacting multiple employees. This

[1] *Borsboom (Labour Inspector) v Preet PVT Ltd & Ors* [2016] NZEmpC 143.

proposed penalties that should be globalised for materially similar or even identical breaches, but failures to pay employees would generally not be globalised (and apply per affected employee). Therefore, a breach of a failure to comply with the terms and conditions of an FPA that affected 10 employees could theoretically result in a maximum penalty of $200,000 (noting, the penalty awarded would be dependent on a number of other factors).

21. In 2016 the enforcement tools for employment standards were strengthened. In particular, pecuniary penalties and banning orders were introduced. As you have indicated that an FPA should be treated as a minimum standard, we have recommended that the Labour Inspectorate's enforcement tools should be available for a failure to comply with certain terms within an FPA [refer briefing 2021-2155]. This will include pecuniary penalties of up to $50,000 for an individual; or $100,000 or three times the amount of the financial gain made by the body corporate from the breach for a body corporate.

22. We are aware of concerns regarding the effectiveness of the current set of compliance tools including via the ER Authority. This will be considered as part of the intended review of the employment dispute resolution process [refer briefing 2021-1104].

Increasing the penalties in the FPA system would raise regulatory issues as different penalties would apply for similar behaviour

23. The list of breaches that we recommended the ER Authority could apply penalties for included breaches that could occur during the development of an FPA and those that could occur once it is in force.

24. FPAs could be considered a hybrid model in that they are developed through bargaining (similar to individual and collective agreements), but once they are in force they set the minimum standard for that industry of occupation (similar to minimum employment entitlements). Therefore, when considering the implications of including higher penalties in the FPA system compared to related systems it is worth separately considering the breaches that apply during development and once the FPA is in force.

There may be a justification for higher penalties for non-compliance with obligations and duties that apply during FPA bargaining

25. The duties and requirements that apply during the development of an FPA where we have recommended a penalty apply are:

    a. An employer breaching its duty of good faith duty by doing anything with intention of inducing an employee not to be involved in initiation of an FPA, FPA bargaining or the FPA ratification vote.

    b. An employer intentionally or recklessly failing to comply with the requirements to notify affected workers of the initiation, ratification and renewal of an FPA.

    c. An employer intentionally or recklessly failing to provide the contact details of affected workers to the union(s) representing them.

    d. A breach of the duty of good faith by any party that it applies to, where they have engaged in behaviour that is:

        - deliberate, serious, and sustained; or
        - intended to undermine FPA bargaining.

e. An employer unreasonably withholding consent in relation to a request by a union representative to enter a workplace; or refusing to permit entry for, or obstructing, a union representative who is entitled to enter a workplace.

f. An employer failing to allow an affected worker to attend the minimum paid meetings they are eligible for in relation to FPA bargaining.

g. A union intentionally or recklessly providing inaccurate information as part of the application for an FPA to be initiated.

h. A union, employer bargaining representative, or employer intentionally or recklessly providing inaccurate information as part of the ratification evidence.

26. As FPAs are developed through bargaining many of the breaches that could occur during development (which include a penalty) are the same or similar as those that apply during bargaining for an individual or collective agreement. Under the ER Act, penalties apply for breaches in relation to good faith, the requirement to provide employee contact details to unions, union representative workplace access, and allowing affected workers to attend paid meetings. The Equal Pay Act includes a penalty (with the same maximum level as the ER Act) for breaches in relation an employer's notification requirements in relation to employees regarding a pay equity claim.

27. Applying a higher penalty for these types of breaches when they occur in relation to FPA bargaining compared to the Employment Relations or Equal Pay systems will create an inconsistency between these systems, as different penalties are applied for similar behaviour.

28. It may, however, be possible to make a case that higher penalty are required for these breaches when they occur in relation to the development of an FPA as:

a. Once an FPA is in force it will have universal coverage of the affected industry or occupation – behaviour that has a negative impact on the development of an FPA, or on workers ability to participate in the bargaining and ratification, could have a greater and wider impact compared to similar behaviour in relation to collective bargaining or a pay equity claim.

b. A greater deterrence for non-compliance for these types of breaches is required in the FPA system to mitigate the risk that the system lacks sufficient incentives for employers to participate in bargaining constructively [refer briefing 2021-1724].

Including higher penalties for non-compliance with an FPA once in force would create significant inconsistencies between the related systems

29. Once in force, an FPA sets the minimum standards for that occupation or sector. So it has a similar effect as an employment minimum entitlement (such as minimum wages or leave entitlements), but is industry or occupation specific.

30. The duties and requirements that apply once an FPA is in force where we have recommended a penalty apply are:

a. A breach of the duty of good faith by any party that it applies to, where they have engaged in behaviour that is intended to undermine an FPA.

b. A party not complying with an FPA once it is in force.

c. An employer misclassifying an employment relationship as a contractor arrangement to avoid FPA coverage.

d. Obstructing or delaying an Employment Relations Authority investigation or process that it is mandated to perform in the FPA system (noting, this can also apply for disputes that occur during bargaining).

31. Increasing the penalties available through the ER Authority for breaches in relation to these duties and requirements will create consistency and proportionality issues with the ER Act. It would result in different maximum penalties applying for similar behaviour, even though the impact is a similar (or potentially lower) level of harm.

32. For example, an employer that did not comply with the terms and conditions of an FPA could be subject to a greater penalty than an employer that did not comply with the minimum wage or leave entitlements (where the employee is not covered by an FPA). In both situations the employee is missing out on their minimum entitlements. In the case of the employer not complying with minimum wage and leave entitlements, these requirements are likely to be lower, so the impact on the employee of not receiving them may be greater.

33. This could create reputational risks as it could make the overall employment system appear incoherent.

34. The decision to introduce a penalty for misclassifying an employment relationship as a contractor arrangement to avoid FPA coverage will already create an inconsistency with the ER Act. If an employer misclassifies an employee as a contractor, even if it is with the intention of avoiding paying their minimum employment entitlements, the employer is liable to pay minimum employment entitlements, but is not subject to a penalty. Therefore, any increase in the penalty applied when this misclassification is for the purpose of avoiding an FPA will increase this inconsistency[2].

We have identified three options for addressing your concerns in relation to the proposed penalty levels for the FPA system

35. We continue to consider the FPA system should be consistent with the employment relations system and that the same maximum penalties should apply (option 1). We consider the maximum level of penalties that the ER Authority is able to apply should be considered as part of the intended review the dispute resolution process [refer briefing 2021-1104]. This will allow for a thorough consideration of the maximum penalty levels that apply across the relevant systems in relation to employment terms and conditions.

36. Serious breaches of an FPA (once it is in force) that affect a number of employees could still result in higher penalties, as:

    a. The penalty could accumulate per employee.

    b. We have recommended that the Labour Inspectorate's enforcement tools (which include the higher pecuniary penalties) would also be available for more serious non-compliance with particular terms of FPAs (relating to base wages, minimum leave entitlements, and overtime and penalty rates) [refer briefing 2021-2155].

37. You have previously agreed to leverage the existing structures and delay the development of a new structure/institution for the FPA system so that the system can be developed more quickly. Increasing the penalty levels in the FPA system to be different to those in the ER Act shifts away from this approach. This may attract a higher level of scrutiny from a regulatory design and/or justice perspective.

[2] When providing advice on the penalty for misclassification an employment relationship, we did not recommend applying the penalty more broadly to the entire ERES system as it would pre-empt the policy work underway for dependent contractors (as this was one of many options consulted on) and would be a significant policy change that would be out of the intended policy scope of FPA legislation.

38. If you continue to consider higher penalties are required in the FPA system, there are two other options you could consider:

    a. **Option two:** Increase the penalties in relation to breaches of the duties and requirements that apply during FPA bargaining. This would create some inconsistency between the systems, but may be justified, to some degree, by the different nature and impact of the systems. Under this option the maximum penalty for breaches once an FPA is in force would remain at the same level. As outlined above, under this option an employer could still be subject to higher penalties for breaching an FPA for a number of employees or for breaches covered by pecuniary penalties.

    b. **Option three:** Increase the penalties in relation to all breaches where a penalty via the ER Authority applies in the FPA system. This option would create consistency and proportionality issues between the FPA system compared to other systems that create obligations in relation to employment terms and conditions.

If you choose to increase the FPA penalties now, we recommend increasing them to $20,000 for an individual or $40,000 for a company

39. You have previously indicated you consider the penalties should be doubled and you asked us to look at comparative systems. The systems that are directly comparable (i.e. those that relate to terms of employment) all apply the same maximum penalties as the ER Act. Other systems that contain similar types of conduct cannot be considered directly comparable as they have a different policy intent, are more directly linked to harm and occur within a criminal jurisdiction.

40. If you decided to implement option two or three, we therefore recommend you increase the maximum penalty level to $20,000 for an individual and $40,000 for a company or other corporation (as you previously suggested). This would place it within the lower end of the range of penalties for similar types of breaches in the health and safety at work and immigration systems. This seems appropriate as these penalties are being applied in a civil jurisdiction and the breaches are less directly linked to harm.

41. Any greater increase in the penalty levels available through the ER Authority would need careful consideration given the nature of the ER Authority (compared to a court). During the review of the compliance responses under the ER Act in 2015, the option of increasing the maximum penalties awarded by the ER Authority to $50,000 for an individual and $100,000 for a company was considered. This option was not recommended as it was not considered appropriate for the ER Authority, as a non-judicial body, to be considering cases that could result in significant financial penalties[3]. This option was also thought to weaken the signal that serious breaches must be dealt with 'seriously'. Instead the preferred option of enabling the Labour Inspectorate to seek pecuniary penalties via the Employment Court was implemented.

42. Increasing the penalty levels any further would also result in a higher maximum than the penalty for a breach of a compliance order. If the person does not comply with a compliance order in the specified time period, the Employment Court can order that the person in default be fined a sum not exceeding $40,000, be sentenced to imprisonment for a term not exceeding 3 months, or that the property of the person in default be sequestered. The penalty level for a breach of a compliance order is intended to punish the party for their original breach and for failing to remedy the original breach when given the opportunity. Therefore we do not consider it appropriate for the maximum penalty via the ER Authority to be higher than the maximum penalty applied for a breach of a non-compliance order. Setting a higher limit for penalties via the ER Authority could also risk incentivising parties to take a

[3] MBIE. 2015. Regulatory Impact Statement. Strengthening Enforcement of Employment Standards. ris-2015-employment-standards-review.pdf (mbie.govt.nz)

more punitive, rather than restorative approach, as their first action. Any changes in the maximum penalty levels for breaches of non-compliance order in relation to FPAs would result in the same consistency issues raised above.

Next steps

43. We will provide your office with a copy of a draft skeleton of the cabinet paper seeking approval to draft (when it is sent to central agencies) this week.

44. We seek your decisions on this paper by 10 March so that they can be incorporated into the Cabinet paper.

45. We will provide a final version of the Cabinet paper and the associated Regulatory Impact Statement on 26 March 2021.