



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Adjustments to the Employee Preference Cap under Insolvency Law	Date to be published	26 October 2021

List of documents that have been proactively released

Date	Title	Author
9 September 2021	Cabinet Paper: Adjustments to the Employee Preference Cap under Insolvency Law	Office of the Minister of Commerce and Consumer Affairs
9 September 2021	LEG-21-MIN-0129	Cabinet Office – Cabinet Economic Development Committee

Information redacted

NO

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.



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Adjustments to the Employee Preference Cap under Insolvency Law

Portfolio Commerce and Consumer Affairs

On 9 September 2021, the Cabinet Legislation Committee:

- 1 **noted** that the Companies Act 1993 and the Insolvency Act 2006 require the employee preferential claim figure to be adjusted every three years, using a prescribed formula;
- 2 **noted** that the next adjustments to the employee preferential claim figure must be made by Orders in Council, before 30 September 2021 per the Insolvency Act 2006 and before 31 October 2021 per the Companies Act 1993;
- 3 **noted** that the adjusted employee preferential claim figure is \$25,480 which reflects an overall increase in average salary and wage rates for all industries/occupations combined in the private sector of 6.3 per cent over the three-year period ending 30 June 2021;
- 4 **noted** that the Companies (Maximum Priority Amount) Order 2021 and the Insolvency (Maximum Priority Amount) Order 2021 will adjust the employee preferential claim figure in the Companies Act 1993 and the Insolvency Act 2006, by revoking and replacing the Companies (Maximum Priority Amount) Order 2018 and the Insolvency (Maximum Priority Amount) Order 2018;
- 5 **authorised** the submission to the Executive Council of the:
 - 5.1 Companies (Maximum Priority Amount) Order 2021 [PCO 24034/2.0]; and
 - 5.2 Insolvency (Maximum Priority Amount) Order 2021 [PCO 24035/2.0];
- 6 **agreed** to a waiver of the 28-day-rule so that the adjustment can come into force on 30 September 2021 to meet the deadlines in the Insolvency Act.

Rebecca Davies
Committee Secretary

Attendees: (see over)

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon Nanaia Mahuta
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood
Hon Dr David Clark
Hon Meka Whaitiri
Keiran McAnulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG