



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	Fair Pay Agreements – Approval to introduce	Date to be published	2 May 2022

List of documents that have been proactively released

Date	Title	Author
March 2022	<i>Fair Pay Agreements Bill: Approval for Introduction</i>	<i>Office of the Minister of Workplace Relations and Safety</i>
28 March 2022	<i>Fair Pay Agreements Bill: Approval for Introduction</i> <i>CAB-22-MIN-0095 Minute</i>	<i>Cabinet Office</i>

Information redacted

YES

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Some information has been withheld for the reason of confidential advice to Government.



Cabinet

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.

Fair Pay Agreements Bill: Approval for Introduction

Portfolio **Workplace Relations and Safety**

On 28 March 2022, following reference from the Cabinet Business Committee, Cabinet:

Introduction of the Fair Pay Agreements Bill

- 1 **noted** that the Fair Pay Agreements Bill (the Bill) is seeking a category two priority on the 2022 Legislation Programme (to be passed within the year);
- 2 **noted** that the Bill will provide a legal framework for an occupation – or industry – wide collective bargaining system, to operate alongside the current employment relations system;
- 3 **approved** the Bill for introduction, subject to paragraph 4 below and the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agreed** that Parliamentary Counsel Office (PCO) can make the following changes to the Bill up until the Bill is provided to Cabinet for approval for introduction:
 - 4.1 insertion of the clause by clause analysis;
 - 4.2 editorial changes to incorporate feedback from PCO proof reading and quality control processes;
 - 4.3 restructuring (e.g. merging of certain Parts) to improve the readability of the Bill;
 - 4.4 substantive changes to settle drafting in the particular areas listed on the front of the Bill, in line with previous policy decisions;
- 5 **agreed** that minor consequential changes can be made to the Departmental Disclosure Statement, attached to the submission under CAB-22-SUB-0095, to ensure consistency with changes made to the Fair Pay Agreements Bill up until introduction;
- 6 **agreed** that the Bill be introduced in the week beginning 28 March 2022;
- 7 **agreed** that the government propose that the Bill be:
 - 7.1 referred to the Education and Workforce Committee for consideration for a period of six months; and
 - 7.2 enacted by the end of October 2022;

- 8 **noted** that the Minister for Workplace Relations and Safety will provide a Supplementary Order Paper to the Education and Workforce Committee giving effect to the decisions in the companion paper titled “*Fair Pay Agreements: Backstop where one side is not represented*”;

Decisions relating to advance drafting approved by the Attorney-General


- 9 **noted** there is a need to expand the Labour Inspectorate’s powers under the Bill, so they can effectively determine if an employee is covered by a Fair Pay Agreement;
- 10 **agreed** the following changes to the Labour Inspectorate’s powers or related processes for the purposes of determining if an employee is covered by a Fair Pay Agreement:
- 10.1 extend the concept of ‘employer’ to include a ‘controlling third party’ when the Labour Inspectorate reasonably believes the party has information relevant to determining coverage of a Fair Pay Agreement, which would allow the Labour Inspectorate to question a party or require them to provide documents;
 - 10.2 enable the Labour Inspectorate to interview, with their consent, employees of a business which holds a contract with the employer that is subject to the coverage determination, if the Labour Inspectorate reasonably believes the information would be important to determining coverage;
 - 10.3 enable the Labour Inspectorate to conduct any interviews with employees within its powers at any location, including online, so long as the interview proposed is at a reasonable time and the employee has agreed to the time and location of the interview;
 - 10.4 clarify that when the Labour Inspectorate requires documents be provided, this includes information stored electronically;
 - 10.5 allow appeals from Labour Inspector decisions to the Employment Relations Authority within 28 days;
- 11 **noted** the Attorney-General has approved drafting of the matters in paragraphs 10, and they are therefore reflected in the Bill proposed for introduction;

Labour Inspectorate can seek a penalty for failing to provide required documents

- 12 **agreed** that if the employer or controlling third party fail, without reasonable cause, to provide the relevant information as requested by the Labour Inspectorate, the Labour Inspectorate may bring an action in the Authority and the employer or controlling third party could be liable to a penalty of up to \$10,000 in the case of an individual, or \$20,000 in the case of a company or other corporation;

Financial implications

13 Confidential advice to Government

**Decisions made under delegated authority**

- 16 **noted** that in April 2021, Cabinet authorised the Minister for Workplace Relations and Safety to make decisions on issues that arise during the drafting process [CAB-21-MIN- 0126], and these decisions are summarised in Annex 1 attached to the submission under CAB-22-SUB-0095;
- 17 **noted** some of the decisions made by the Minister for Workplace Relations and Safety supersede previous Cabinet decisions, and were made in response to issues that arose during the drafting process;
- 18 **endorsed** decisions taken by the Minister for Workplace Relations and Safety as described in Annex 2 attached to the submission under CAB-22-SUB-0095.

Michael Webster
Secretary of the Cabinet