



BRIEFING

Request to draw down funding for Fair Pay Agreement system

Date:	25 June 2021	Priority:	High
Security classification:	Budget - Sensitive	Tracking number:	2021-3934

Action sought		
	Action sought	Deadline
Hon Grant Robertson Minister of Finance	Agree to draw down \$35.801 million from the tagged operating contingency and \$0.835 from the tagged capital contingency to implement the Fair Pay Agreement and Screen industry bargaining systems in New Zealand.	29 June 2021
Hon Michael Wood Minister for Workplace Relations and Safety		

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Tracy Mears	Manager, Employment Relations Policy	██████████	✓
Ellen Stairmand	Policy Advisor, Employment Relations Policy		

The following departments/agencies have been consulted
Treasury

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

Request to draw down funding for Fair Pay Agreement system

Date:	25 June 2021	Priority:	High
Security classification:	Budget - Sensitive	Tracking number:	2021-3934

Purpose

To seek approval to draw down \$36.636 million from the 'Implementing Fair Pay Agreements and Screen Industry Bargaining Systems' tagged contingency.

Recommended action

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

- a **Note** that on April 12 2021, Cabinet agreed to establish, a tagged operating contingency of \$35.801 million and a tagged capital contingency of \$1.335 million in Vote Labour Market to provide for Implementing Fair Pay Agreements and Screen industry Bargaining systems, as follows [CAB-21-MIN-0116.18 refers]:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Implementing Fair Pay Agreements and Screen Industry Bargaining Systems – Tagged Operating Contingency	-	6.333	9.226	10.031	10.211
Implementing Fair Pay Agreements and Screen Industry Bargaining Systems – Tagged Capital Contingency	-	1.205	0.130	-	-

Noted

- b **Note** that on 12 April 2021, Cabinet authorised the Minister of Finance and the Minister of Workplace Relations and Safety to jointly approve draw downs from the contingencies, subject to Cabinet FPA design decisions [CAB-21-MIN-0116.18 refers].

Noted

- c **Note** \$0.5 million in capital was previously earmarked for the development of a repository system, contingent on approval of a capital expense transfer from 2020/21 to 2021/22. However, the capital expense transfer from 2020/21 has since been received. The \$0.5 million for the repository system will not be drawn down.

Noted

- d **Agree** to draw down \$35.801 million from the tagged operating contingency and \$0.835 from the tagged capital contingency to implement the Fair Pay Agreement and Screen industry bargaining systems in New Zealand, with the following impacts on the operating balance and net core Crown debt:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Operating Balance and Net Core Crown Debt Impact	-	6.168	9.061	9.866	10.0461
Operating Balance Only Impact	-	0.123	0.123	0.123	0.123
Net Core Crown Debt Only Impact	-	0.835	-	-	-
No Impact		0.042	0.042	0.042	0.042
Total	-	7.168	9.226	10.031	10.211

Agree / Disagree

- e **Agree** to establish the following new appropriation:

Vote	Appropriation Minister	Title	Type	Scope
Vote Labour Market	Minister for Workplace Relations and Safety	Support for Fair Pay Agreements and Screen Industry bargaining	Non Departmental Other Expense	This appropriation is limited to the provision of support to peak employer and union bodies and bargaining representatives involved in Fair Pay Agreement and screen industry bargaining

Agree / Disagree

- f **Approve** the following changes to appropriations and capital injections to the Ministry of Business, Innovation and Employment to give effect to the decisions in recommendations (d) and (e) above:

	\$m – increase/(decrease)					
	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Vote Labour Market Minister for Workplace Relations and Safety						
Departmental Output Expenses:						
Workplace Relations and Safety – Employment Relations Services (funded by Revenue Crown)	-	5.544	7.191	7.981	8.140	8.140
Non-Departmental Other Expenses:						
Workplace Relations and Safety – Employment Relations Authority Member’s Salaries and Allowances	-	0.545	0.741	0.756	0.777	0.777
Workplace Relations and Safety – Support for Fair Pay Agreements and Screen Industry bargaining	-	0.744	1.294	1.294	0.794	1.294
Vote Business, Science and Innovation Minister for Economic Development						
Ministry of Business, Innovation and Employment - Capital Injection	-	0.705	0.130	-	-	-
Total Operating	-	6.833	9.226	10.031	9.711	10.211
Total Capital	-	0.705	0.130	-	-	-

Agree / Disagree

- g **Agree** that the proposed change to appropriations for 2021/22 in financial recommendation (e) be included in the 2021/22 Supplementary Estimates of Appropriations and that, in the interim, the increase be met from Imprest Supply.

Agree / Disagree

- h **Agree** that the expenses incurred under recommendation (e) above be charged against the *Implementing Fair Pay Agreements and Screen Industry Bargaining Systems – Tagged Operating Contingency* described in recommendation (a) above, and that the capital expenditure incurred under recommendation (e) above be charged against the *Implementing Fair Pay Agreements and Screen Industry Bargaining Systems – Tagged Capital Contingency* described in recommendation (a) above.

Agree / Disagree

- i **Note** that potential delays in the implementation of providing capability support to peak bargaining bodies requires the in-principle transfer of up to the following maximum amount of operating funding from 2021/22 to 2024/25:

	\$m – increase / (decrease)				
	2021/22	2022/23	2023/24	2024/25	2025/26 & Outyears
Vote Labour Market					
Minister for Workplace Relations and Safety					
Non-departmental other expense: Support for Fair Pay Agreements and Screen Industry bargaining	(0.500)	-	-	0.500	-

Noted

- j **Agree** that the Minister of Finance and the Minister for Workplace Relations and Safety will jointly determine the final amount to be transferred, following completion of the 2021/22 audited financial statements, with no impact on the operating balance and/or net core Crown debt across the forecast period.

Agree / Disagree



Tracy Mears
Manager, Employment Relations
Labour Science and Enterprise, MBIE

25/06/2021

Hon Grant Robertson
Minister of Finance

..... / /

Hon Michael Wood
Minister for Workplace Relations and Safety

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Background

- On 12 April 2021, Cabinet agreed to a tagged contingency fund of \$35.801 million in operating and \$1.335 million in capital expenditure in order to implement the Fair Pay Agreements (FPA) and screen industry system [CAB-21-MIN-0116.18 refers]:

	\$m – increase/(decrease)				
	2020/21	2021/22	2022/23	2023/24	2024/25 & Outyears
Fair Pay Agreements and screen industry bargaining systems – Tagged Operating Contingency	-	6.333	9.226	10.031	10.211
Fair Pay Agreements and screen industry bargaining systems – Tagged Capital Contingency	-	1.205	0.130	-	-

- Cabinet authorised the Minister of Finance, and the Minister Workplace Relations and Safety to jointly approve draw downs from the contingencies, subject to Cabinet FPA design decisions [CAB-21-MIN-0116.18 refers].

Cabinet agreed to key features of the Fair Pay Agreement system

- On 19 April 2021, Cabinet agreed to key features of the FPA system [CAB-21-MIN-0126 refers].
- The FPA system will enable employees and employers in an industry or occupation to bargain new minimum employment terms and conditions. This will improve labour market outcomes for employees in industries or occupations where an FPA is concluded, and facilitate greater and more mature sector-wide dialogue and co-ordination between employers and employees.
- The FPA system largely reflects the model recommended by the Fair Pay Agreement Working Group (FPAWG).
- Any union can initiate bargaining for an FPA if they meet either:
 - the representation test of 1,000 employees or 10 percent of the employees in proposed coverage (whichever is lower); or
 - a public interest test that builds on the criteria proposed by the FPAWG.
- When an FPA has been finalised, all employers within coverage will be bound by it, regardless of whether they participated in the FPA bargaining process or not. Likewise, all employees within coverage will receive the benefits of the new minimum employment terms set by the FPA for their industry or occupation.
- A key aim of the FPA legislation is to drive an enduring, system-wide change. You have signalled that in order to embed and support this change over the longer-term, a new regulatory institution is needed to undertake the broader functions and responsibilities

proposed. In the interim, these functions and responsibilities can be performed by existing parts of the Employment Relations and Employment Standards (ERES) regulatory system.

Costs of the Fair Pay Agreement system

9. The FPA system introduces new activities to the Ministry of Business, Innovation and Employment (MBIE) and the Employment Relations Authority which are not covered by baseline resourcing. While FPAs are linked with the existing ERES regulatory system, the FPA system has some key differences. The FPA system would augment – rather than replace – the current system.
10. The FPA system has been designed to encourage a bargained outcome some of which will become minimum employment entitlements. The Government has agreed to invest \$37.136 million over four years to set up the FPA system and support bargaining parties through the process.
11. This funding includes;
 - a. \$28.856 million over four years for additional resources for mediation, dispute resolution, verification and compliance activities, awareness raising, monitoring and evaluation, and business support. This extra funding will enable MBIE to undertake functions needed to support the implementation and ongoing operation of the FPA system.
 - b. \$4.126 million over four years to provide financial support to those who will be actively involved in the FPA system. This includes \$250,000 each year for three years for the New Zealand Council of Trade Unions (CTU) and Business NZ to support their role in coordinating FPAs, identifying bargaining parties and helping to raise awareness about FPAs and the bargaining process. Funding is also available to directly support the bargaining sides of four FPAs per year. Bargaining sides can receive a contribution of \$50,000 towards the cost of bargaining with the option of seeking an additional \$25,000 where low union or industry body membership increases the costs of coordination. This initiative includes equivalent bargaining support for the related bargaining system created by the Screen Industry Workers Bill.
 - c. \$2.819 million over four years will provide for three additional Employment Relations Authority members. This resource will enable the additional dispute resolution functions introduced by the FPA system to be undertaken.
 - d. \$0.835 million to provide for capital costs, for example, office equipment and property set up costs. \$0.5 million was previously earmarked for the development of a repository system for storing and accessing FPAs, contingent on approval of a capital expense transfer from 2020/21 to 2021/22 to develop a shared repository for FPAs, pay equity claims and all other collective agreements. However, the capital expense transfer from 2020/21 has since been received. The \$0.5 million for the repository system will not be drawn down.
12. The FPA legislation is expected to be introduced in November 2021 and enacted in mid-2022. In order to have the required institutions operational in time, including operational design, funding is required for the 2021/22 year.
13. If funding for the 2021/22 year is not approved, there is a risk of delayed implementation of the FPA system.
14. We propose bringing forward the funding for peak body support by one year in order to support the smooth introduction of the FPA system. Since the public announcement there has been a lot of interest in FPAs from a range of unions. Bringing forward the peak body funding would allow the CTU to capitalise on this public interest and begin building capability

before FPA legislation is enacted in mid-2022. An even handed approach is to offer to bring forward funding for Business NZ as well so that both peak bodies have the same opportunity to build their capability over the next 12 months.

15. Should there be delays in provision of this capability funding we propose that any capability funding remaining at the end of 2021/22 be able to be transferred into future years to help ensure the success of the FPA system.
16. The support provided to those actively involved in the FPA system requires Ministers to establish a new appropriation. This proposed new appropriation (included below) is intended to achieve constructive FPA and screen industry bargaining by supporting peak body capability and capacity-building and contributing to bargaining costs in recognition of the industry or occupation-wide benefits of FPA bargaining.

Vote	Appropriation Minister	Title	Type	Scope
Vote Labour Market	Minister for Workplace Relations and Safety	Support for Fair Pay Agreements and Screen Industry bargaining	Non Departmental	This appropriation is limited to the provision of support to peak employer and union bodies and bargaining representatives involved in Fair Pay Agreement and screen industry bargaining