



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Workplace Relations and Safety
<b>Title of Cabinet paper</b>	Fair Pay Agreements Regulations 2022	<b>Date to be published</b>	8 February 2023

<b>List of documents that have been proactively released</b>		
<b>Date</b>	<b>Title</b>	<b>Author</b>
November 2022	Fair Pay Agreements Regulations 2022	Office of the Minister for Workplace Relations and Safety
24 November 2022	Fair Pay Agreements Regulations 2022 LEG-22-MIN-0216 Minute	Cabinet Office

### **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.*

---

### Fair Pay Agreements Regulations 2022

**Portfolio**                      **Workplace Relations and Safety**

On 24 November 2022, the Cabinet Legislation Committee:

- 1        **noted** that on 1 November 2022, the Fair Pay Agreements Act 2022 (the Act) received Royal assent;
- 2        **noted** that the Act's regulation-making powers in section 283 commenced on 2 November 2022;
- 3        **noted** that in March 2022, the Cabinet Economic Development Committee (DEV) made policy decisions relating to the default bargaining parties for a Fair Pay Agreement [DEV-22-MIN-0040];
- 4        **noted** that, under section 5(3) of the Act, if either side is not represented in bargaining (e.g. by a union or an employer association), regulations can specify an employee default bargaining party and an employer default bargaining party, but only if the Minister for Workplace Relations and Safety (the Minister) is satisfied they are the most representative organisations of unions and employers respectively;
- 5        **noted** that the Minister is satisfied that BusinessNZ and the New Zealand Council of Trade Unions are the most representative organisations of employers and unions respectively;
- 6        **noted** that in August 2022, Cabinet made policy decisions relating to:
  - 6.1      how information should be provided for the representation test to initiate bargaining;
  - 6.2      the coverage of a Fair Pay Agreement;[CAB-22-MIN-0291]
- 7        **noted** that in August 2022, DEV:
  - 7.1      made policy decisions relating to regulations for the Fair Pay Agreements system, including how to satisfy the public interest test criteria to initiate bargaining;
  - 7.2      authorised the Minister to make decisions consistent with the policy intent on any issues that arise during the drafting process;[DEV-22-MIN-0185]

- 8 **noted** that the Minister used the authority described in paragraph 7.2 to establish approximate numeric thresholds for the public interest test criteria, to provide an adequate level of specificity for the regulations in line with the policy intent;
- 9 **noted** that the Fair Pay Agreements Regulations 2022 will give effect to the decisions referred to in paragraphs 3, 5 – 7.1 and 8;
- 10 **noted** that two further sets of regulations will need to be made to fully implement the remaining components of the Fair Pay Agreements system;
- 11 **noted** that the Minister intends to seek approval in 2023 for these subsequent regulations to be made;
- 12 **authorised** the submission to the Executive Council of the Fair Pay Agreements Regulations 2022 [PCO 25054/7.0];
- 13 **noted** that the Fair Pay Agreements Regulations 2022 come into force on 1 December 2022;
- 14 **noted** that a waiver of the 28-day rule is sought:
- 14.1 so that the regulations can come into force on 1 December 2022, the same day as the rest of the Act commences;
- 14.2 on the grounds that the regulations confer only benefits on the public, since they provide certainty and clarity about the operation of the Act's provisions and are primarily to enable a regulator to assess applications to initiate bargaining for a Fair Pay Agreement; and
- 14.3 regulations about default bargaining parties will also, in practice, not take effect for several months while preceding steps in the application and bargaining process are completed;
- 15 **agreed** to a waiver the 28-day rule so that the regulations can come into force on 1 December 2022.

Rebecca Davies  
Committee Secretary

---

**Present:**

Hon Chris Hipkins (Chair)  
Hon Carmel Sepuloni  
Hon Poto Williams  
Hon Jan Tinetti  
Hon Michael Wood  
Hon Dr David Clark  
Hon Kieran McAnulty  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG