
Fair Pay Agreements



New Zealand Council Of
Christian Social Services

Legislation Progress 2022

Initiation:

As part of its commitment to fairer workplace conditions in Aotearoa, in the leadup to the 2020 New Zealand general election Labour promised to implement Fair Pay Agreements. While this was welcome for those working in competitive and underpaid industries such as nursing, it has not progressed to the form of passed legislation – despite massive strike action from DHB nurses to gain their perceived worth in pay. In 2018 this concept was agreed to by cabinet in principle.

An opening for feedback on the proposed changes was created in October of 2019, and the proposed legislation received a significant response. Coverage was an issue that most submitters did not touch on, however some discussed the possibility of minimum pay rate variations between regions, due to variation in living costs. Another issue raised around coverage was around coverage for contractors, and the necessity to close a potential loophole.

Manifesto:

In Labour's manifesto Fair Pay Agreements were intended for those working in highly competitive industries where employers pay less to gain an advantage over competitors. The legislation is intended to avoid a 'race to the bottom', however for many advocates of the policy the assumption was that minimum pay rates established through collective pay agreements would be shared across an industry for comparable work. What we have seen in terms of collective action taken through strikes has been that pay increases have only applied to sub-sectors, e.g., DHB nurses, excluding equally qualified nurses working in aged care, while Fair Pay Agreements would have made this pay increase possible across the board.

Cabinet Paper: Approval to Draft

Following on from the submissions from the public, in April 2021 a Cabinet Paper was submitted by MBIE for an approval to draft, meaning this legislation is progressing. Its key areas of projected impact are in pay equity and resolving bargaining imbalances in a workforce with low union membership and only 17% collective bargaining coverage. A union would be able to initiate the proceedings for negotiation with a mandate of either 1,000 workers or 10% of the workforce within the proposed coverage. The resulting collective agreement would cover base wages, hours of work,

overtime and penalty rates (higher pay for working certain days e.g., public holidays). There would be a requirement for a public interest test, with evidence showing an industry specific condition demonstrating the need for a collective agreement.

Within the framework there would be two distinct forms of FPA, as defined by the initiator of the process: either an Occupational FPA – applying to a specific occupation within an industry, or an Industry FPA – applying to each occupation within an industry. Contractors would not initially be covered by FPAs, however there is the possibility that they would be included with further amendments to legislation.

Funding would be available for both negotiating parties, with \$50,000 available initially for both sides and \$25,000 available for each side with less than 20% of coverage on their side as members of a union or industry group. NZCTU and BusinessNZ would both be provided with \$250,000 per year for 3 years following the passing of the legislation in order to support their roles in collective bargaining.

Mandatory to Agree	Mandatory to Discuss
Base wage rates.	Redundancy.
How wage rates will be adjusted during the term of an FPA.	Leave requirements.
Whether employer contributions are included in base pay rates.	Objectives of the FPA.
Ordinary hours, overtime, penalty rates (rates that apply when working overtime or shifts etc.)	Skills and training.
Coverage.	Health and safety.
Duration of FPA.	Flexible working.
Governance arrangements (such as what, if any, ongoing responsibilities bargaining parties have).	

In terms of FPAs in the public sector, the Public Sector Commissioner will be responsible for their negotiations. If an agreement is not reached between unions and businesses, they would be forced to accept a ruling by the Employment Relations Authority.

As it stands, the bill has been introduced to parliament and is currently awaiting its first reading. The government hopes to pass it by the end of 2022. More detailed information about the proposed bill is available [here](#).

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