

A SUMMARY OF FAIR PAY AGREEMENT BILL

The "Fair Pay Agreements Bill" has been introduced to Parliament, passed its first reading, and has been sent to Select Committee. The Government intends to pass the Bill into law later this year, and for it to be fully up and running early to mid-2023.

The so-called Fair Pay Agreements are meant to set compulsory minimum employment terms that would apply to employers and employees. Fair Pay Agreements will not just cover pay rates. There is a list of other things that must be covered (e.g. overtime rates and hours of work), and a further list of things that can be covered (e.g. redundancy, health and safety requirements or leave entitlement).

Coverage under a particular Fair Pay Agreement can be on a sector/industry-basis (e.g. a food and beverage business worker), or by occupation-basis (e.g. a chef). However, a Fair Pay Agreement will be able to provide that different terms apply to different classes of employees (e.g. a bar-person vs a duty manager).

The Fair Pay Agreements regime would result in employers and workers in various sectors being forced into collective bargaining. The collective bargaining would result from various low-level triggers (such as a union identifies that either 1,000 employees or 10% of the employees in proposed coverage support having a Fair Pay Agreement, or if a public interest test is met). The bargaining would then be undertaken by unions and employers organisations (with individual workplaces and individual workers having very little input).

The resulting agreement on pay would then be applied to all employees and workplaces in that sector.

If the unions and employers organisations could not reach agreement, the regime will provide for the Employment Relations Authority ("the ERA") to set the terms and conditions of the "agreement".

The process for finalising a Fair Pay Agreement would include that:

- It is vetted by the ERA.
- Employers and employees covered get to vote on ratification (if proposed agreements can through this stage and two attempts, the "agreement" can then be set by the ERA).
- The proposed agreement is brought into force by the Chief Executive of MBIE through secondary legislation.

Once a Fair Pay Agreement has been finalised, all employers who fall within the coverage of the agreement will be bound by it (including employers who did not participate in the bargaining process).

The Fair Pay Agreements regime would provide significantly greater procedural powers for unions (e.g. entering workplaces and collecting information), plus a

much greater employment relations bargaining role for unions. Technically, this will not involve compulsory unions, but will likely involve significantly higher union membership in our industry.

At this stage, contractors will not be covered. Penalties can apply to employers who seek to avoid Fair Pay Agreements by engaging workers as contractors.

A summary of why Hospitality NZ opposes the Fair Pay Agreements Bill

A summary of why Hospitality NZ opposes the Fair Pay Agreements Bill include:

- It is too much of a "one size fits all" model, that does not adequately deal with differences between individual workplaces in our industry.
- It will drive up the cost of running a business, at a time when we can least afford it.
- It is a cumbersome and expensive model, that would not allow businesses to pivot and cope with new challenges.
- It will lead to inflation and unemployment.
- It is compulsory unionism by stealth.
- It is taking away the basic freedom of parties to fix their own affairs
- It will erode productivity.
- It will hurt New Zealand's most vulnerable workers (by making it unaffordable to employ them).
- It is such a major change to employment law that it should be a 2023 election issue.