



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

Fair Pay Agreements Implementation Programme

July 2022





Welcome

Today we will talk through the Fair Pay Agreements Implementation Programme based on the FPA Bill as it currently stands.

Disclaimer:

The Bill is passing through parliament. Aspects of implementation may be subject to change.

Overview

- The Fair Pay Agreement (FPA) system intends to introduce a fairer system for workers, raising minimum standards across an entire industry or occupation, and encouraging competition through increased productivity, instead of reduced wages or conditions.
 - **The FPA system aims to:**
 - improve labour market outcomes by enabling employers and employees to collectively bargain minimum employment terms.
 - Creating a framework for FPA specific collective bargaining.
 - Setting minimum employment terms on an industry or occupation-wide bases.
 - Build on the existing Employment Relations system, by adding an additional layer of collective bargaining (it does not replace any existing parts of it)
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Fair Pay Agreements Bill

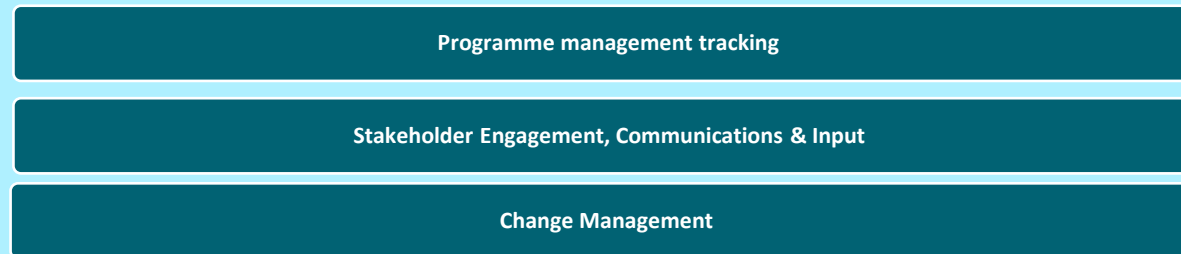
- The Fair Pay Agreement Bill was introduced into Parliament at the end of **March 2022**.
 - New Zealanders had an opportunity to have their say on the Bill and in **June 2022** the Select Committee (SC) heard from submitters who wanted to present their evidence in person.
 - The SC are now considering any amendments to the Bill and is due to report back to Parliament in early **October 2022**.
 - Second and third reading of the Bill TBC.
 - Royal Assent - FPA is expected to come into effect **end 2022**.
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Fair Pay Agreements – Implementation Programme

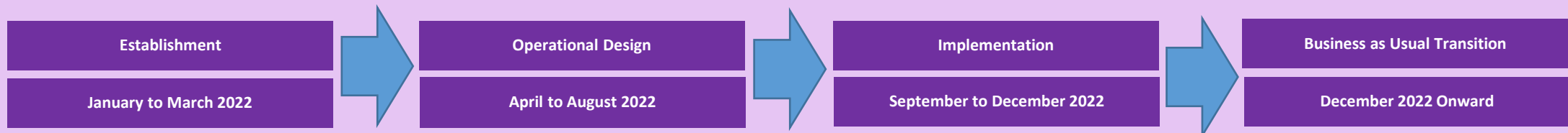
FPA Workstreams



Programme Management



Implementation Programme Phasing



Implementation programme timeline

MBIE is preparing for the implementation of the Bill so we can be ready to support the FPA system and all stakeholders that may take part in the system. Key milestones are set out below, subject to change as policy and design decisions are made. We are currently in the Operational design phase.

Establishment phase (up to March 2022)

- Introduction of FPA Bill
- Implementation programme structure established

Operational Design phase (April 2022 – June 2022)

- FPA Bill goes through Select Committee process
- Scoping of operational requirements, including new functions (e.g. Vetting & Verification, Bargaining Capability Support)
- Engagement with key stakeholders, including Māori stakeholders, education / awareness-raising activity (ongoing)

Operational Design phase (continued) (July 2022-September 2022)

- FPA Bill continues through Select Committee process
- Working with stakeholders on information and awareness raising
- Recruitment and training of FPA implementation-related roles
- Privacy Impact Assessment
- Development of technical guidance & templates
- Development of FPA content for Employment NZ website

Implementation & post-implementation (October 2022 onwards)

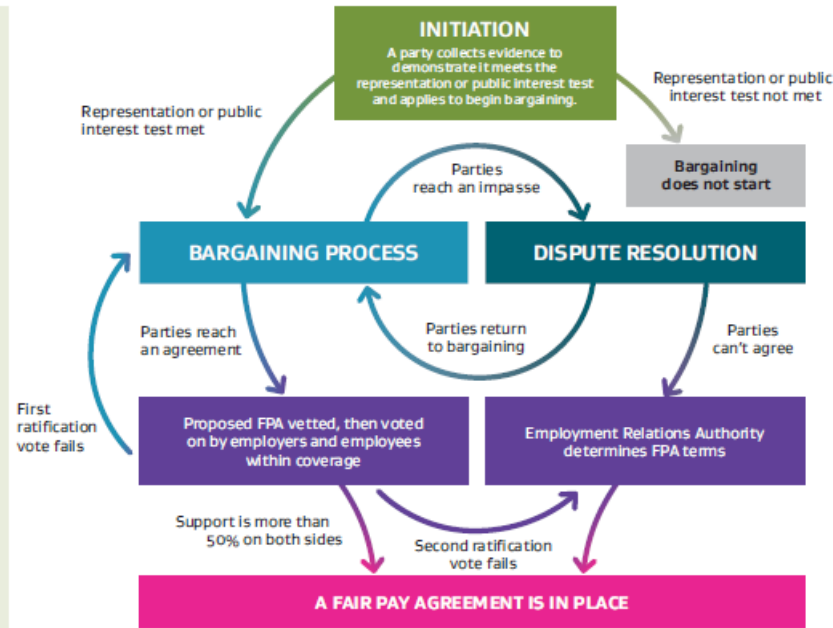
- Approval of regulations
- Anticipated royal assent of FPA Bill
- FPA system 'go-live'
- Go-live for new FPA system support functions (e.g. Vetting & Verification, Bargaining Capability Support)
- Final technical guidance, templates, and web content released
- Commence multi-channel FPA information campaign

Fair Pay Agreements - Proposed System

1: INITIATION

A number of steps must be taken before bargaining can begin.

- MANDATE:** Unions initiate the FPA process, by meeting a representation threshold of support from 10% or 1000 workers in coverage, or a public interest test. If the coverage substantially expands during bargaining, the public interest or 10% representation test will need to be retested.
- COVERAGE:** The initiating union/s must decide which work they want covered. Parties can later agree to change the coverage. FPAs can be an occupational FPA or an industry FPA. If there is an overlap in coverage between two FPAs, the second one only applies if the workers would be better off overall. Contractors are not currently included, but the government plans to begin work soon to incorporate contractors into the Fair Pay Agreements Act later. Penalties will be applied to employers who try to avoid FPA coverage by misclassifying employees as contractors.
- NOTIFICATION:** It's important that people who will be covered by an FPA know that bargaining has been initiated. Employers, unions, business representatives and government will each have a role in notification, to reach as many affected parties as possible.



3: SUPPORT

FPAs bargaining will receive more active support than enterprise-level bargaining.

- ACTIVE SUPPORT:** Bargaining sides will be actively supported by training and a government-provided bargaining support person. The government will also contribute \$50,000 per bargaining side, with additional funds if the side has low rates of membership of a union or industry group. Funding for this support is based on four FPAs per year. If more than four FPAs are initiated, the government will need to ration and prioritise its support. Separately, the New Zealand Council of Trade Unions and BusinessNZ have each been offered \$250,000 per year to support their coordination roles in the FPA system.
- COMMUNICATION:** Employees will receive direct updates from unions, unless they opt out of communications. Employers must allow employees to attend two, two-hour paid meetings during FPA bargaining. Unions can visit workplaces on FPA business without needing the employer's consent.
- DISPUTE RESOLUTION:** If bargaining parties encounter difficulties, mediation will help to resolve them. The Employment Relations Authority can also make recommendations. If bargaining parties reach a stalemate, the Employment Relations Authority will set the FPA's terms by determination.

2: PROCESS

The rules around bargaining will be crucial to ensure FPA bargaining is effective and balanced.

- BARGAINING PARTIES:** Unions will represent employees. Employers will choose representatives who meet specified requirements. The bargaining sides must use best endeavours to represent all those in coverage, including non-members, and to ensure Māori interests and views are effectively represented. If one bargaining side is, or becomes unrepresented, a default bargaining party may step into bargaining. The government proposes the default bargaining party role will be voluntary and could be fulfilled by the New Zealand Council of Trade Unions (NZCTU) or BusinessNZ. If there is no eligible representative on one side and the default is not willing to step in, then the Employment Relations Authority will set the terms of the FPA as a backstop.
- SCOPE OF AGREEMENTS:** All FPAs must include certain topics like base wage rates, ordinary hours, overtime and penalty rates. Some other topics must be discussed but don't have to be agreed, like redundancy, leave, and health and safety. Other employment terms can be included if the bargaining sides agree.
- EXEMPTIONS:** An FPA can allow for exemptions for businesses if they are in significant financial hardship. An FPA can set regional differences, and other differential terms if they comply with the Human Rights Act and minimum employment entitlements. An FPA can set a preferential payment for union members, up to a maximum value.

4: FINALISING AN FPA

Important steps are needed to ensure the resulting agreements are supported and have the force of law.

- VETTING:** The Employment Relations Authority will vet an agreed FPA to ensure the terms are lawful, before it goes to a vote.
- RATIFICATION:** If bargaining parties reach an agreement, their proposed FPA will need support from a simple majority of both employee and employer voters to be ratified. Employers have 1 vote per employee in coverage, with slightly higher vote weighting for employers with fewer than 20 employees in coverage. If a first ratification vote fails, parties go back to bargaining. If a second vote fails, the FPA goes to the ER Authority for determination.
- ENACTMENT AND ENFORCEMENT:** Once finalised, MBIE will make secondary legislation to bring the FPA into force, so it will apply to everyone within coverage. People within coverage can enforce their rights through the standard employment dispute resolution system. In addition, the Labour Inspectorate can enforce certain terms of the FPA.



Questions?
