

Playing Fair

WINNING FAIR PAY AGREEMENTS



Fair Pay Agreements: The Government's proposal

We are winning Fair Pay Agreements! E tū has promoted Fair Pay Agreements since before the 2017 General Election. Now law is being drafted, we continue to campaign to ensure that Fair Pay Agreement law delivers on the promise of transforming the lives of workers across Aotearoa.

The Government has set out its proposal in a Cabinet Paper, prepared by Minister for Workplace Relations and Safety, Michael Wood, which reflects our main aspirations for this new industry-wide bargaining. Here is a summary of the proposal.

Initiation: How is a Fair Pay Agreement process started?

There are three ways an FPA negotiation process can be initiated:

- 1,000 workers sign up to call for an FPA.
- 10% of a workforce signs up to call for an FPA.
- A 'public interest test' is met (meaning a decision that the FPA process will start without needing 1,000 or 10% of workers, because an FPA is necessary to combat harmful conditions, such as low pay).

Exactly which workers will be covered by the FPA is then negotiated by the union on behalf of the workers, and the employers. For example, an FPA could have coverage as broad as all of aviation, or as specific as all commercial cleaners. Any disputes over coverage will be settled by a determination from the Employment Relations Authority.

How are workers and employers represented?

Both workers and employers need to be properly represented in negotiations if FPAs are to be truly fair. Union members know

that the strength of our negotiating position depends on the input of affected workers.

The Government proposes several ways to ensure both the employee and employer side are properly represented:

- Unions will be able to communicate directly with all workers in the negotiated FPA coverage.
- Once an FPA is in force, unions can access workers covered by it without needing permission from the employer.
- Unions can hold two paid meetings for members, on top of existing meeting rights, to discuss each FPA.
- Māori interests and views must be sought and represented, as part of our obligations under Te Tiriti o Waitangi.

What happens at the negotiations?

Negotiations (sometimes called 'bargaining') is where we figure out what the terms and conditions in an FPA will actually be.

The proposed law identifies elements that are mandatory to agree upon, and mandatory to discuss. Any other matter can be considered.

Elements that are mandatory to agree are:

- wage rates
- how wage rates will be adjusted during the term of the FPA
- the inclusion of superannuation payments
- hours of work (ordinary hours, overtime, penal rates, and more)
- coverage – which workers will benefit from the FPA
- duration of the agreement
- governance arrangements – such as the ongoing responsibilities of the negotiating parties during the term of the FPA.

Elements that are mandatory to discuss, meaning they must be talked about by the negotiating parties (but won't necessarily be included in the final FPA), are:

- health and safety
- leave entitlements
- the overall objectives of the FPA
- skills and training
- flexible working arrangements.

What if there is a dispute?

Ideally, a negotiation means that both parties put their case forward and can reach an agreement. However, we know that is not

how it always works – and we need processes to move forward if we reach a 'stalemate'.

There will not be a right to take industrial action (such as striking) as part of FPA negotiations – however, that right remains persevered and unchanged for usual collective agreement negotiations. This is because an FPA is regulation or secondary legislation, rather than a collective employment agreement under the Employment Relations Act. This means it is enforceable by the Labour Inspectorate and there are penalties for breaches of the minimum terms of the FPA.

How is agreement reached?

Once the terms and conditions on an FPA are finalised, whether by agreement or determination, it's up to all workers to accept or reject the proposal. All workers and employers within the coverage get to vote, and it will be ratified if a simple majority (more than 50%) vote in favour.

The FPA is then officially brought into force by representatives at the Ministry of Business, Innovation, and Employment (MBIE). And that's it – we've won the FPA!

As the shape of FPAs is developed, E tū will call for improvements to this draft to ensure the final legislation is as wide-reaching and effective as possible.

