

(Para numberings as per original paper)

## Purpose

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This briefing sets out reprioritisation options in the Workplace Relations and Safety portfolio to support the Government's fiscal objectives.

## Executive summary

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This briefing provides you with background information on expenditure and savings opportunities within the Workplace Relations and Safety portfolio.

The key opportunity for savings and reprioritisation that you may wish to explore with officials is s 9(2)(f)(iv) from the MBIE's Employment Services branch achieved by ceasing the current Fair Pay Agreements (FPA) work programme. This includes both departmental and non-departmental spending.

[remainder of section out of Scope]

## Recommended actions

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The Ministry of Business, Innovation and Employment recommends that you:

b Note that:

- i. this Workplace Relations and Safety Portfolio briefing identifies options of up to s 9(2)(f)(iv), for your consideration

*Noted*

- c **Note** the proposed savings s 9(2)(f)(iv) and reprioritisation opportunities s 9(2)(f)(iv) that would arise from ceasing Fair Pay Agreements activities, including s 9(2)(f)(iv)

*Noted*

# Strategic choices for Reprioritisation in the Workplace Relations and Safety Portfolio

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1. This paper sets out the key choices on where and how you may wish to invest, reprioritise, or deliver savings in the Workplace Relations and Safety Portfolio.

## Opportunities for Savings and Reprioritisation in Your Portfolio

4. Any savings or reprioritisation within your portfolio will require trade-offs to ensure that both the ERES and HSW regulatory systems remain sufficiently resourced to maintain their respective systems and deliver on your priorities as Minister.
  - Savings from the cessation of Fair Pay Agreement (FPA) activities, yielding s 9(2)(f)(iv) and proposed reprioritisation of s 9(2)(f)(iv)
5. The cessation of the current FPA work programme will yield savings. Given the early stage of FPA bargaining processes, some FPA-funded resources are currently reinforcing existing employment services. Demand for employment relations services in Q1 2023/24 shows volumes are tracking significantly higher than 2022/23. Reprioritising some FPA funding would allow MBIE frontline services and the ERA to maintain service delivery levels amid rising demand, while returning significant departmental and non-departmental savings.

## Fiscal Background for the Workplace Relations and Safety Portfolio

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### The Recent History of Funding in Your Portfolio

#### *MBIE Employment Services*

19. Over the last five years MBIE and the ERA have received the following new ongoing operational funding:
  - \$12.952m<sup>2</sup> for the Fair Payment Agreements work programme (introduced in 2021/22)
20. Additionally, fixed term funding was also received between 2018/19 and 2022/23 to deliver time-limited work to deliver specific activities on [out of scope, FPAs, [out of scope]. All this fixed-term funding has ended by 2023/24.

## Opportunities for Reprioritisation in your Portfolio

### Departmental Savings and Reprioritisation Opportunity: Winding-up the FPA Work Programme

27. MBIE and the ERA received funding in Budgets 2021 and 2022 to operationalise the FPA system. To allow for recruitment and training for effective operations, operational capacity for FPAs was brought online ahead of the anticipated go-live date (1 December 2022), and in sequence. Through the Budget process, it was also agreed that MBIE and the ERA would use FPA-funded resources to support existing employment services until any FPA casework commenced given uncertainties over how processes would progress, such as in the ERA. In addition to providing vital capacity for core employment services, this also ensured any new mediators, Labour Inspectors and ERA members would be fully trained when FPA-related work arose.
28. With the FPA system being repealed<sup>3</sup>, some savings can be made from 2024/25 in the three appropriations that received FPA increases, as detailed in Table 2.

Table 2: FPA Budget and Proposed Savings/Reprioritisation

Appropriation	2024/25 budget	s 9(2)(f)(iv)
<i>Employment Relations Services</i> (Departmental)	\$63.848m, of which <b>\$13.211m</b> was provided through Fair Pay Agreement Budget bids.	
<i>Employment Relations Authority Members' Salaries and Allowances PLA</i> (Non-departmental)	\$8.657m <sup>4</sup> , of which <b>\$1.771m</b> was provided through Fair Pay Agreement Budget bids.	
<i>Support for Fair Pay Agreements and Screen Industry occupational bargaining</i> (Non-departmental)	\$0.994m, of which <b>\$0.750m</b> was earmarked for Fair Pay Agreements. Remainder of appropriation is grants for bargaining processes under different legislation, the Screen Industry Workers Act 2022.	
Total		

<sup>3</sup> Briefing Ref 2324-0918.

<sup>4</sup> The appropriation rises in 24/25 due to the new Budget 23-funded ERA Members. This is only funded part-year in 2023/24 to account for recruitment of the positions, but full year in out years.

The reprioritisation of s 9(2)(f)(iv)

above will allow MBIE and the ERA to maintain service delivery levels under general employment legislation. Given delays in FPA legislation coming into force and the early stage of FPA bargaining processes, FPA-funded resources are helping meet general demand for employment relations services.

#### **Non-Departmental Savings Opportunities**

34. As Minister for Workplace Relations and Safety, you are also able to undertake savings and reprioritisation exercises in relation to the non-departmental expenditure in your portfolio.

#### *Employment Relations Authority*

35. Savings in the Crown's non-departmental investment in the ERA can only be realised by reducing the number of ERA members. Once appointed, members can only be removed before the conclusion of their term for reasons set out in the Employment Relations Act (e.g. serious misconduct or bankruptcy), unless they resign.
36. There are currently 26 ERA members, with this number reducing to 24 in March 2024.<sup>5</sup> The ERA member salary appropriation has funding for 31 ERA members. Of these, seven members were funded through FPAs, and a further seven new roles were funded in Budget 23 (these are currently vacant).
37. Given the same number of member roles were funded through FPAs and created through Budget 23, it is possible to repurpose the Budget 23 funding to retain the seven FPA members who have already been appointed and are currently in their roles. This will free up FPA resourcing to be returned to the Crown as savings.

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<sup>5</sup> One member has been temporarily appointed until the end of 2023 (Alastair Dumbleton), and another member will retire at the end of his current term in February 2024 (Mike Loftus).

## Annex One: Fiscal Summary for the Workplace Relations and Safety Portfolio

Table Excerpt:

### Fiscal Sustainability

The following table summarises options identified for reprioritisation within Workplace Relations and Safety Portfolio (either within the portfolio, or for return to the centre). This includes programmes that could be stopped, and others that can be scaled.

Option for reprioritisation	s 9(2)(f)(iv)	s 9(2)(f)(iv)	Implementation	Comment
Savings from Ceasing Fair Pay Agreement Work Programme*			To be managed through Employment Services branch	s 9(2)(f)(iv)
Reprioritisation from Ceasing Fair Pay Agreement Work Programme			To be managed through Employment Services Branch	Reprioritisation will allow MBIE and the ERA to maintain service delivery levels under general employment legislation

Table Excerpt:

### Manifesto Commitments/Coalition Agreement

The Government Coalition has made a number of commitments in, or relating to, the Workplace Relations and Safety Portfolio. The high-level costing estimates are set out below these manifesto commitments are as follows:

Source	Manifesto Commitment/Coalition Agreement	High level cost estimate \$million pa	FTE implication	Implementation	Comment on estimates
Act	Repeal the Fair Pay Agreement regime by Christmas 2023	Policy work costs to be managed through reprioritisation within policy baselines	To be managed within existing capacity	By 24/12/2023	Assumes work to be resourced from within existing policy resource through internal reprioritisation



## BRIEFING

### Repeal of the Fair Pay Agreements legislation

<b>Date:</b>	28 November 2023	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-0918

Action sought		
	Action sought	Deadline
Hon Brooke van Velden <b>Minister for Workplace Relations and Safety</b>	Provide comments on the draft Cabinet paper attached.  Arrange for the Cabinet paper to go straight to Cabinet on 4 December.  Indicate your preference in relation to grant funding for FPA bargaining sides.	30 November 2023

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Beth Goodwin	Manager, Employment Relations Policy	04 901 1611	s 9(2)(a)	✓
Hannah Adams	Principal Advisor, Employment Relations Policy	04 896 5262		

The following departments/agencies have been consulted
Treasury, Ministry of Justice, and Parliamentary Counsel Office.

Minister's office to complete:

- |                                               |                                              |
|-----------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



# BRIEFING

## Repeal of the Fair Pay Agreements legislation

<b>Date:</b>	28 November 2023	<b>Priority:</b>	High
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-0918

### Purpose

This briefing seeks your decision on the initial steps to repeal the Fair Pay Agreements (FPA) legislation.

### Executive summary

#### The legislative timeframes will need to be significantly shortened to achieve your timeframe

The National and ACT Parties' coalition agreement commits to repeal the Fair Pay Agreements (FPA) regime by Christmas 2023. We are ready to support you to achieve this. It will require the timeframes for each step to be significantly reduced from normal. In particular:

- The Cabinet paper seeking approval for the policy will need to be lodged this week for consideration by Cabinet on 4 December, omitting consideration by a Cabinet Committee. We have attached a draft Cabinet paper for your review.
- A very short timeframe will be available for Parliamentary Counsel Office (PCO) to draft the Bill (until 15 December). PCO advises that this timeframe is possible, as long as Cabinet policy approvals are secured as soon as possible (ie on 4 December).
- The Ministry of Justice's Bill of Rights Act vet will need to be based on a near final draft of the Bill and they would only have 1-2 days, rather than the normal two weeks.
- The Cabinet paper seeking approval to introduce the Bill would need to be considered by Cabinet on 18 December, again omitting consideration by a Cabinet Committee.
- The Bill will need to be passed under urgency and receive Royal Assent in the week of 18 December.

#### There are operational implications of repealing the FPA legislation

The Ministry of Business, Innovation and Employment (MBIE) currently performs a range of FPA related functions required by the FPA Act, such as assessing and deciding on applications to initiate bargaining or be a bargaining party. Some of these functions involve statutory timeframes for decisions by the Chief Executive of MBIE. MBIE is legally required to continue performing these functions until any repeal takes effect and is funded to do so.

MBIE and the Employment Relations Authority (ERA) received funding in Budget 21 and Budget 22 to operationalise the FPA system. Due to delays in the legislative process and FPA bargaining, some FPA functions have not been needed to date, and this additional capacity has been used to address general demand in the employment system. Given the high demand for services across the employment system at present, decisions to remove or reduce FPA funding will have implications for service delivery. This is covered further in the Workplace Relations and Safety portfolio fiscal briefing (2324-0900 refers).

MBIE also received an additional allocation of grant funding to disburse to bargaining sides. This funding will continue to be provided to bargaining sides until the FPA system is repealed unless

Cabinet decides to stop providing it before then. s 9(2)(h) If, however, you would prefer to stop providing this funding through new grants given the system is being repealed, you could seek a Cabinet decision on this, as part of the initial Cabinet decisions on repealing the FPA legislation. We seek a decision from you on this point.

## Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** Treasury indicated that MBIE would be granted a duplication exemption from Regulatory Impact Statement (RIS) requirements if MBIE provided the 2021 Fair Pay Agreement (FPA) RIS to accompany the Cabinet paper, together with a new 'coversheet' outlining any additional impacts of the repeal. *Noted*
- b **Note** MBIE has prepared the coversheet analysis to accompany the existing RIS and has received confirmation from the Treasury that we have met the requirements for the exemption. *Noted*
- c **Agree** to provide comments on the draft Cabinet paper attached in Annex Three by 29 November. *Agree / Disagree*
- d **Agree** to seek the permission of the Prime Minister's Office and Cabinet Office for the FPA repeal policy paper to be lodged this week and go straight to Cabinet on 4 December. *Agree / Disagree*
- e **Note** that drafting timeframes will be significantly truncated, but Parliamentary Counsel Office advises that passing a Bill before Christmas is possible, as long as Cabinet policy approvals are secured as soon as possible (ie on 4 December). *Noted*
- f **Note** MBIE will continue to perform operational functions relating to FPAs until the repeal takes effect, where these are not discretionary under the *Fair Pay Agreements Act 2022*, and some involve statutory timeframes. *Noted*
- g **Note** that, some of the funding provided in Budget 21 and Budget 22 to operationalise the FPA system has created some additional capacity which is being used to address high demand for general employment services due to delays in FPA bargaining. *Noted*
- h **Note** MBIE received an allocation of grant funding to disburse to bargaining sides (\$59,375 per bargaining side, with a potential additional \$25,000 if membership of unions or employer associations on their side is low). *Noted*
- i **Indicate** whether you would prefer to:

Option 1: Continue to provide grant funding until the FPA legislation is repealed.	<b>Option 1</b>
	Or
Option 2: Seek Cabinet approval to stop accepting applications for grant funding while the FPA legislation is being repealed but continue to process existing applications.	<b>Option 2</b>

	Or
Option 3: Seek Cabinet approval to stop providing new grant funding while the FPA legislation is being repealed (this will mean existing applications on hand would not receive funding).	<b>Option 3</b>



Beth Goodwin  
**Manager, Employment Relations Policy**  
 Workplace Relations and Safety Policy, MBIE

28 / 11 / 2023

Hon Brooke van Velden  
**Minister for Workplace Relations and Safety**

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## Background

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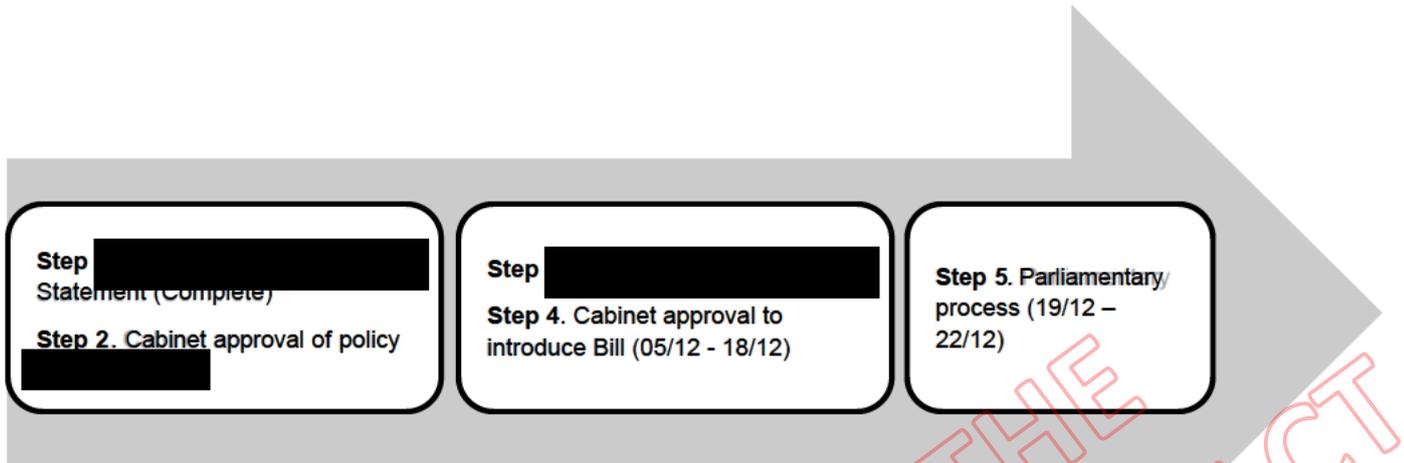
1. In 2022, the government introduced legislation for a Fair Pay Agreements (FPA) system, where unions and employer associations could bargain for employment terms and conditions that covered all employees in an industry or occupation. The *Fair Pay Agreements Act 2022* and Fair Pay Agreements Regulations 2022 came into force on 1 December 2022.
2. The National and ACT Parties' coalition agreement includes a commitment to repeal the FPA regime by Christmas. This will require the repeal of the:
  - a. *Fair Pay Agreements Act 2022*,
  - b. Fair Pay Agreements Regulations 2022,
  - c. consequential amendments made to other acts (eg the *Employment Relations Act 2000*),
  - d. amendments made to other regulations (eg the Employment Relations Authority Regulations 2000 and Employment Court Regulations 2000).
3. Repealing the FPA system also has implications for functions funded to administer and support the system, which sit within the Ministry of Business, Innovation and Employment (MBIE) and Employment Relations Authority (ERA), and the grant funding provided as part of the system.
4. This briefing includes advice on the process for repealing the FPA legislation by Christmas and seeks a decision on the grant funding available for bargaining sides. It also outlines some considerations in relation to the funding for FPA related functions (which will be covered in more detail in separate advice), the obligations that will continue to apply for stakeholders, and work programme discussions.

## Repealing the FPA Act by Christmas will require shortening the timeframes for the legislative process

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5. Repealing an Act, and associated regulations, requires the same steps as any Bill. The steps are to: develop a regulatory impact statement, seek Cabinet approval of the policy, draft the Bill, seek Cabinet approval to introduce the Bill, and for parliament to consider the Bill.
6. To repeal the FPA legislation by Christmas, it will be necessary to significantly condense or skip some of the steps involved in the legislative process. The steps outlined below assume the intended Bill covers a clear-cut policy to repeal the system, in a context where no FPAs have been finalised. We consider there is little chance that any FPAs would be finalised in this timeframe, given the current progress of initiated FPAs.
7. An indicative timeframe for each step is summarised in the diagram below, and then explained in the following sections. The intention is for some steps to occur simultaneously to reduce the overall timeframe.

## Indicative timeframe for repealing the FPA legislation before Christmas



8. Annex One sets out the steps and indicative timeframes in greater depth and Annex Two includes a summary of the actions and decisions required to reduce the timeframes for each step.

### Step one: Regulatory Impact Statement

9. A Cabinet circular requires that, unless an exemption applies, any government regulatory proposals taken to Cabinet for approval that ultimately require creating, amending, or repealing Acts or secondary legislation must be accompanied by a RIS (which has been independently quality assessed and at least 'partially meets' the RIS quality requirements).
10. One of the grounds for granting an exemption is that "the relevant issues have already been adequately addressed by existing impact analysis". Treasury advised it would grant a duplication exemption if MBIE attaches the 2021 FPA RIS to the Cabinet paper, together with a supplementary 'coversheet' containing analysis of the impacts of repealing the FPA legislation. The granting of the exemption is based on the assumption that the policy proposal taken to Cabinet will be for a straightforward repeal of the entire FPA system.
11. MBIE have developed the supplementary coversheet and it has been through MBIE's quality assurance process. We have received confirmation from Treasury that we have, therefore, met the requirements for the exemption.

### Step two: Cabinet approval of policy

12. We have prepared a draft Cabinet paper, which is attached at Annex Three (based on the existing Cabinet paper template).
13. We request you provide any comments on the draft Cabinet paper to us by 29 November. The Cabinet paper will need to be lodged on 30 November, which will allow no, or only minimal, time for consultation with other government agencies, Ministers, or coalition partners.
14. The Cabinet paper will need to be considered by Cabinet on 4 December, omitting any consideration by a Cabinet Committee. This will require the permission from the Prime Minister's Office and Cabinet Office – we recommend your office contact the Prime Minister's Office and Cabinet Office to arrange for this. MBIE's private secretary can assist with this.

### Step three: Develop Bill

15. The Bill to repeal the FPA legislation is reasonably simple but will need to also cover the repeal of the associated regulations and the amendments made to other Acts and regulations when establishing the system (eg the *Employment Relations Act 2000*, the *Employment Relations Authority Regulations 2000* and the *Employment Court Regulations 2000*).
16. We have identified one technical change that was made to *Employment Court Regulations 2000* as part of the FPA related amendments that should be retained, as it fixed an error. This amendment made the figures for the fees for all *Employment Court* forms (not just the FPA related forms) GST-exclusive. We have included this as a recommendation in the draft Cabinet paper.
17. Parliamentary Counsel Office (PCO) does not normally begin drafting until a Cabinet decision directs them to do so and MBIE has provided drafting instructions. MBIE has drafting instructions ready, which we will be ready to share with PCO upon Cabinet policy approvals.
18. To achieve the intended repeal date, the timeframe for drafting the Bill will need to be significantly truncated, to approximately 1.5 weeks (4 to 15 December). PCO advises that this timeframe is possible, as long as Cabinet policy approvals are secured as soon as possible (ie on 4 December).
19. The truncated timeframe will require that no or only standard transitional provisions are inserted. s 9(2)(h)

s 9(2)(h)

20. s 9(2)(h)
- s 9(2)(g)(i)

21. The Ministry of Justice completes a Bill of Rights Act (BoRA) vet of all Bills. The CabGuide requires a final version of the Bill to be provided to the Ministry of Justice at least two weeks in advance of the Cabinet Legislation Committee meeting considering the Bill. To achieve the intended timeframe, the BoRA vet will need to instead occur in one to two days (approximately 11 to 12 December) and be based on a near final draft of the Bill (so that it can occur in parallel with the Bill being finalised). This is likely to require the BoRA advice to be caveated. We have alerted the Ministry of Justice of the commitment in the coalition agreement and will keep your office updated.

### Step four: Cabinet approval to introduce Bill

22. Once the Bill is drafted, the next step is for you to seek approval from Cabinet to introduce the Bill, on 18 December. This will require:
  - a. MBIE to draft the Cabinet paper while the Bill is being developed (5 to 8 December),
  - b. you to review the draft and provide any feedback (11 to 14 December),

- c. the Cabinet paper to be lodged on 15 December. This is a day later than is standard practice to allow PCO an extra day for drafting of the Bill. We recommend your office seek approval from Cabinet Office to seek a late lodgement in advance. MBIE's private secretary can assist with this.
  - d. the Cabinet paper to be considered by Cabinet on 18 December, omitting any consideration by a Cabinet Committee. The draft Cabinet paper attached includes a recommendation seeking Cabinet approval for this.
23. The timeframes above assume no consultation occurs on the paper or draft Bill with other agencies, Ministers or coalition partners. Please advise us if consultation is required.

### **Step five: Parliamentary process**

24. To achieve the intended timeframe, the Bill would need to be considered under urgency and pass through all the parliamentary stages on 19 and 20 December (with no Select Committee). Cabinet would need to approve that the Bill be considered under urgency. We have included this in the attached draft Cabinet paper. Before Cabinet approval is sought, MBIE's private secretary can work with your office to liaise with the Leader of the House's office, as the latter generally arranges the schedule of the House (including any motions for urgency).
25. Once the Bill has had its third reading, the Governor-General needs to sign it (Royal assent). This would need to occur within one or two days after the third reading. MBIE will work with the Clerk to expedite this, noting that it depends on the Governor-General's availability. The Act would then come into force the day after Royal Assent.

### **Repealing the FPA legislation will have operational implications**

26. Funding was allocated in Budget 21 and Budget 22 to support the FPA system. There are two broad categories for this funding:
- a. Funding for MBIE and the ERA to operationalise the FPA system.
  - b. Grant funding for bargaining sides, disbursed via MBIE on application.

### **Operational capacity for FPAs is largely being used to deliver general employment services, given the early stage of FPA bargaining**

27. MBIE has statutory obligations under the FPA Act, which it is legally required to continue performing until the legislation is repealed.
28. MBIE and the ERA received funding in Budget 21 and Budget 22 to deliver FPA related operational functions. For 23/24, this funding is approximately \$16.209 million in operating expenditure. This covers the following:
- a. providing information and education about the FPA system,
  - b. providing bargaining support services,
  - c. decision-making by the Chief Executive of MBIE (CE MBIE), who is required to assess and decide on applications to initiate bargaining for an FPA or be a bargaining party,
  - d. providing dispute resolution services (eg mediation and early resolution),
  - e. making determinations and monitoring and enforcing compliance with an FPA through the Labour Inspectorate,
  - f. the ERA making FPA-related determinations, including to resolve disputes.

29. Budget 21 and 22 funding provided for the significant expansion in MBIE and ERA capacity required to support the operation of the FPA system. This funding was deliberately phased to start ahead of the commencement of the system, ensuring that new operational frontline workers were recruited, trained and effective in their roles in time for the FPA system coming into force on 1 December 2022.
30. Due to delays in the legislative process and FPA bargaining, only the information and education, bargaining support service, and CE MBIE decision-making functions have been required for FPAs to date. This means that the dispute resolution, Labour Inspectorate and ERA capacity funded by FPAs is continuing to be used, as planned, to address high demand in the general employment system while awaiting FPA work. With the first FPA bargaining commencing on 20 September 2023, this was expected to escalate significantly from Quarter 2 2023/24.
31. These core employment services are under considerable demand pressures. This is largely due to high demand in the system for services to address migrant exploitation, support the Recognised Seasonal Employer scheme, and resolve employment disputes (through both mediation and the ERA). More advice about this is in the Workplace Relations and Safety portfolio fiscal briefing (2324-0900 refers)

**You could seek Cabinet approval to stop providing grant funding to bargaining sides while the legislation is being repealed**

32. To support capability and capacity during bargaining for both FPAs and occupational contracts under the *Screen Industry Workers Act 2022* (SIWA), Cabinet decided that:
  - a. the peak bodies (the New Zealand Council of Trade Unions (NZCTU) and BusinessNZ) would be given \$250,000 each per annum, for three years, with specified funding conditions to build capacity and capability to support the FPA system [CAB-21-MIN-0126 and DEV-21-MIN-0173],
  - b. a one-off contribution of \$50,000 would be available to each FPA and SIWA bargaining side (for FPAs, this funding is capped at 12 bargaining sides per year) [CAB-21-MIN-0126],
  - c. an additional contribution of up to \$25,000 to each FPA and SIWA bargaining side if less than 20 per cent of those in coverage on their side is a member of a union or industry group (as relevant) (for FPAs, capped at six bargaining sides per year) [CAB-21-MIN-0126].
33. NZCTU has received the three payments of \$250,000 for the work it has done and is undertaking (including work in respect to SIWA). BusinessNZ did not accept the funding, and the funding was partially redistributed to the Screen Production and Development Association for SIWA purposes, with the remainder being used to increase the one-off contribution available for each FPA and SIWA bargaining side to \$59,375 in 23/24 only.
34. MBIE is currently receiving and approving applications for the grant funding for FPA bargaining sides. As at 27 November 2023, six FPA bargaining sides have applied for and received the one-off contribution (\$356,250 disbursed) and six bargaining sides have applied for and received the additional contribution of \$25,000 (\$150,000 disbursed). In total, \$506,250 has been disbursed, meaning an additional \$356,250<sup>1</sup> could potentially be provided in the current financial year (if applied for). MBIE do not currently have any further applications being processed.
35. You have a choice about whether MBIE should:

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<sup>1</sup> Up to six bargaining sides could apply for and receive \$59,375 each. No further bargaining side could receive the additional contribution of \$25,000 (as this was capped at six bargaining side per year).

- continue distributing the funding until the FPA Act is repealed, or
- stop accepting applications (but still process any funding applications already received), or
- stop funding any applications now (including not funding any applications already received).

36. s 9(2)(h)

If you want to stop funding bargaining sides before the repeal takes effect, you can do this via a Cabinet decision. This could be sought as part of the initial Cabinet decisions regarding the repeal of the FPA legislation. The recommendations at the front of this briefing seek your direction on this point, and the attached Cabinet paper includes tentative text which we can remove if you want to continue the status quo.

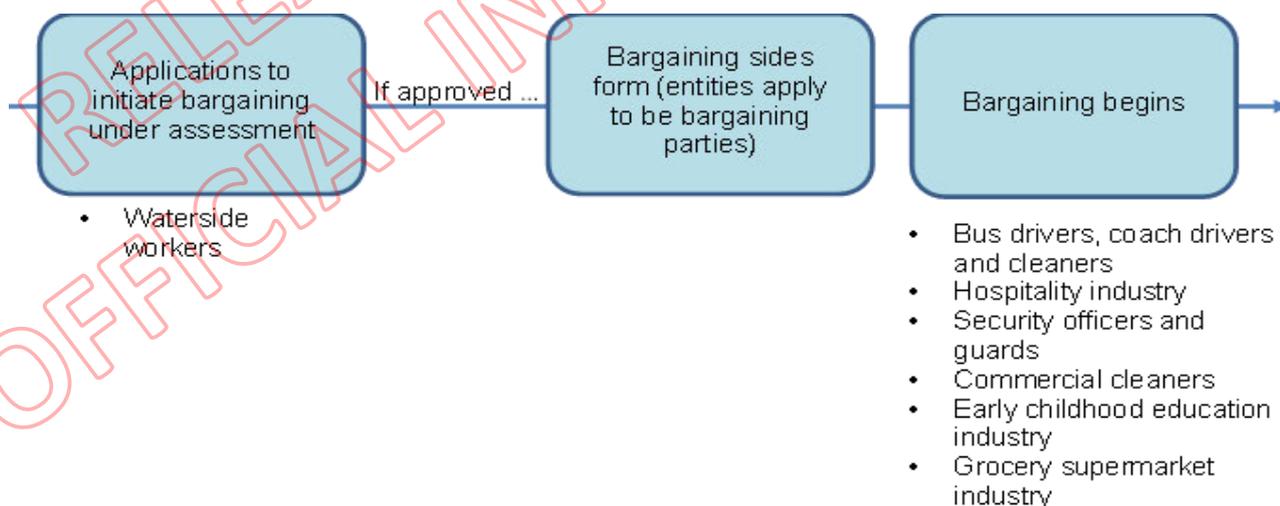
37. s 9(2)(f)(iv)

### Stakeholders involved in FPAs will need to continue to meet their legislated obligations until the FPA Act is repealed

38. As the FPA Act only came into force on 1 December 2022, the system is still in its early stages. As at 27 November 2023:

- six FPAs have been approved for initiation and the bargaining sides have formed, and
- one initiation application is being assessed by MBIE.

#### Initial stages of the FPA process



39. The FPA that is the most progressed is the 'Bus drivers, coach drivers and cleaners' FPA for which bargaining sides formed on 28 June 2023. Bargaining between sides began in September 2023. Bargaining sides have formed for the other five initiated FPAs but we understand that the sides have not yet begun to bargain.

40. As your intention is to repeal the system by Christmas, we do not believe that any of the initiated FPAs will be finalised before the system is repealed, particularly due to the timeframes required to ratify an FPA.

41. Bargaining sides, bargaining parties and covered employers for initiated FPAs must continue to meet their obligations under the FPA Act until it is repealed. In particular:
- a. employers will be required to meet the relevant notification requirements, and
  - b. bargaining parties and bargaining sides will be required to meet their good faith obligations.
42. As part of implementing the repeal of the FPA Act, MBIE will keep bargaining parties (or applicants) updated about the Government's decisions, timing of the repeal, and what this means for their current obligations.

s 9(2)(f)(iv)

43. The FPA system was developed to address issues identified in the labour market. In the RIS developed to consider the implementation of the FPA system, MBIE identified the following issues:
- a. In some sectors/occupations and in some circumstances, the current collective bargaining framework is not providing adequate mechanisms to mitigate the inherent imbalance of bargaining power in the employment context. There is evidence that wages have not kept up with productivity improvements in recent decades. While there are many potential factors, an imbalance of bargaining power is likely to be a contributor.
  - b. In some labour-intensive sectors of the economy, employers may be able to compete by holding down or reducing terms and conditions offered to workers, often described as a 'race to the bottom'. National minimum standards provide some protections for workers, but the suitability of minimum terms and conditions will differ depending on the workforce.
44. The FPA Working Group, which included a BusinessNZ representative, concluded that a mature 21st century labour market in New Zealand will require stronger dialogue between employers and workers. Repealing the FPA system will mean there will be no intervention in the employment relations and employment standards system focused on improving the dialogue between employers and workers to address the identified issues.

45. s 9(2)(f)(iv)

46. s 9(2)(f)(iv)

## **Next steps**

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47. We will update the draft Cabinet paper based on your decisions in this briefing and any feedback you provide, in preparation for lodging it later this week.

## **Annexes**

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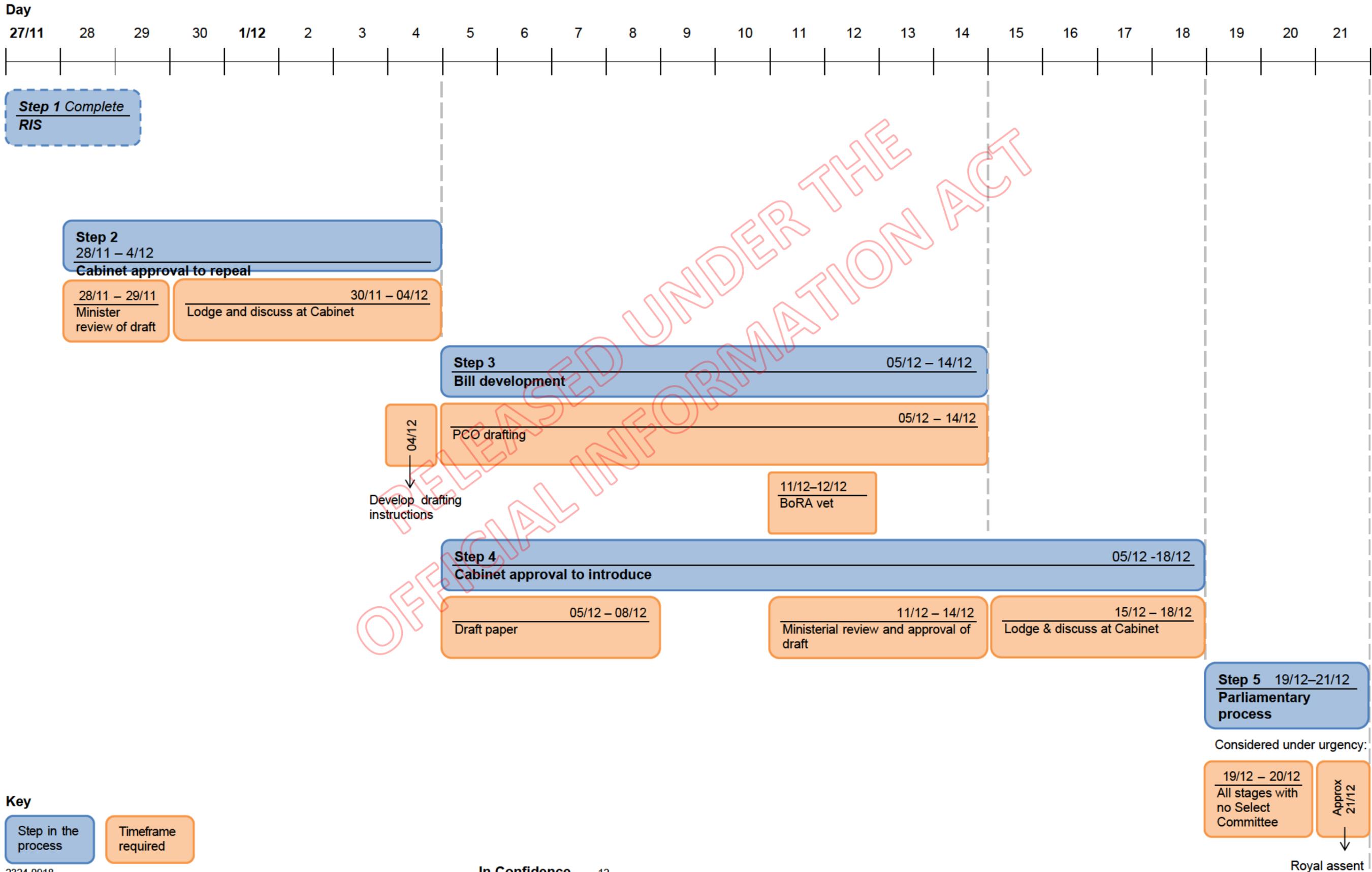
Annex One: Indicative timeframes for repealing the FPA legislation before Christmas

Annex Two: Actions and decisions required to shorten the timeframe for repealing the FPA legislation

Annex Three: Draft Cabinet paper "Repeal of the Fair Pay Agreements legislation"

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# Annex One: Indicative timeframes for repealing the FPA legislation before Christmas



## Annex Two: Actions and decisions required to shorten the timeframe for repealing the FPA legislation

Step	Options for shortening the timeframe	Action or decision required	
		Minister / Minister's Office	MBIE
1: Regulatory Impact Statement	<ul style="list-style-type: none"> <li>Treasury advised it would grant a duplication exemption if MBIE attaches the 2021 FPA RIS to the Cabinet paper, together with a supplementary 'coversheet' containing analysis of the impacts of repealing the FPA legislation.</li> <li>MBIE has prepared the coversheet analysis to accompany the 2021 FPA RIS and FPA repeal Cabinet paper.</li> </ul>		<ul style="list-style-type: none"> <li>No further action required, as Treasury has confirmed that the requirements for the exemption have been met.</li> </ul>
2: Cabinet approval of the policy to repeal the FPA system	<ul style="list-style-type: none"> <li>Skip agency, Ministerial, and coalition partner consultation.</li> <li>Take the paper to Cabinet on 4 December without first going to Cabinet Committee.</li> </ul>	<ul style="list-style-type: none"> <li>Work with the Prime Minister's Office and Cabinet Office to add the FPA repeal paper to the agenda for the 4 December Cabinet meeting.</li> <li>Confirm that no consultation with agencies, Ministers and coalition partners is required.</li> <li>Provide feedback on the draft Cabinet paper by 29 November.</li> <li>Approve final Cabinet paper (once MBIE has loaded it into CabNet) for lodging on 30 November.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporate Minister's feedback and decisions in the draft Cabinet paper.</li> <li>MBIE upload final Cabinet paper in CabNet on 30 November.</li> </ul>
3: Develop the Bill	<ul style="list-style-type: none"> <li>Drafting instructions prepared in advance and finalised the day Cabinet confirms the policy.</li> <li>Prioritise drafting and BoRA vet (note this would require a significantly reduced timeframe from what PCO and Ministry of Justice indicated is required).</li> <li>BoRA vet based on a near final draft.</li> </ul>		<ul style="list-style-type: none"> <li>Prepare drafting instructions in advance.</li> <li>Support PCO via quick turnaround of reviews of draft Bills etc.</li> <li>Arrange with Ministry of Justice for the timeframe for the BoRA vet to be significantly reduced</li> <li>Provide draft Bills to the Ministry of Justice so that the BoRA vet can</li> </ul>

			occur at the same time as the Bill is being drafted.
4: Cabinet approval to introduce the Bill	<ul style="list-style-type: none"> <li>Develop Cabinet paper while Bill is being drafted.</li> <li>Skip agency, Ministerial, and coalition partner consultation (or hold a very short consultation).</li> <li>Take the item or paper straight to Cabinet on 18 December without first going to Cabinet Committee.</li> </ul>	<ul style="list-style-type: none"> <li>Work with the Prime Minister's Office and Cabinet Office to add the FPA repeal paper to the agenda for the 18 December Cabinet meeting.</li> <li>Confirm that no consultation with agencies, Ministers and coalition partners is required (or a very short consultation is required),</li> <li>Provide feedback on a draft Cabinet paper while the Bill is being drafted (by 14 December).</li> <li>Seek approval for a late lodgement from the Cabinet Office in advance.</li> <li>Approve final Cabinet paper (once MBIE has loaded it into CabNet) for lodging on 15 December.</li> </ul>	<ul style="list-style-type: none"> <li>Develop the draft Cabinet paper and provide to the Minister to review.</li> <li>Incorporate Minister's feedback in the draft Cabinet paper and finalise for lodging.</li> <li>MBIE upload final Cabinet paper in CabNet on 15 December (this timeframe requires a late lodgement of the Cabinet paper).</li> </ul>
5: Parliamentary process	<ul style="list-style-type: none"> <li>Bill considered under urgency.</li> <li>Royal assent arranged to occur one or two days after third reading.</li> </ul>	<ul style="list-style-type: none"> <li>Liaise with the Leader of the House's office to confirm the Bill can be progressed under urgency, and seek Cabinet approval for his (as part of the Cabinet paper seeking approval to introduce).</li> </ul>	<ul style="list-style-type: none"> <li>Coordinate the timing of Royal assent with the Clerk.</li> </ul>

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**Annex Three: Draft Cabinet paper “Repeal of Fair Pay Agreements legislation”**

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## BRIEFING

### Final Cabinet Paper – Repeal of the Fair Pay Agreements legislation

<b>Date:</b>	29 November 2023	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-1084

Action sought		
	Action sought	Deadline
Hon Brooke van Velden <b>Minister for Workplace Relations &amp; Safety</b>	<b>Agree</b> to lodge the Cabinet paper <i>Repeal of the Fair Pay Agreements legislation</i> with the Cabinet Office on Thursday, 30 November 2023.	30 November 2023

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Beth Goodwin	Manager, Employment Relations Policy	04 901 1611	s 9(2)(a)	ü
Stacey Campbell	Senior Policy Advisor, Employment Relations Policy	04 901 4139		

The following departments/agencies have been consulted
N/A.

**Minister's office to complete:**

- |                                               |                                              |
|-----------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

**Comments**

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## BRIEFING

### Final Cabinet Paper – Repeal of the Fair Pay Agreements legislation

<b>Date:</b>	29 November 2023	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-1084

### Purpose

This briefing provides you with the final Cabinet paper *Repeal of the Fair Pay Agreements legislation* and seeks your agreement to lodge the paper. It also provides talking points for the Cabinet meeting on Monday, 4 December 2023.

### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Agree** to lodge the Cabinet paper *Repeal of the Fair Pay Agreements legislation* with the Cabinet Office on Thursday, 30 November 2023.

*Agree / Disagree*

- b **Note** the intention is for the Cabinet paper *Repeal of the Fair Pay Agreements legislation* to go straight to Cabinet for consideration on Monday, 4 December 2023.

*Noted*

Beth Goodwin  
**Manager, Employment Relations Policy**  
Labour, Science, and Enterprise, MBIE

29 / 11 / 23

Hon Brooke van Velden  
**Minister for Workplace Relations & Safety**

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## Background

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1. The National and ACT parties' coalition agreement committed to repealing the Fair Pay Agreements (FPA) regime by Christmas.
2. To support this commitment, officials provided you with advice on repealing the FPA legislation and a draft Cabinet paper on Tuesday, 28 November 2023 (briefing 2324-0918 refers).
3. We have made some minor changes to the Cabinet paper, since providing you the previous version, that are marked up in the Cabinet paper for your review (attached at **Annex Two**). The final Cabinet paper is attached at **Annex Three** which, subject to your approval, is ready for lodgement on Thursday, 30 November 2023.
4. The FPA Regulatory Impact Statement (RIS) Coversheet (at **Annex Four**) and the 2021 FPA RIS (at **Annex Five**) should be attached to the Cabinet paper at lodgement.
5. We have also provided talking points at **Annex One** to support you at Cabinet on Monday, 4 December 2023.

## We have made some minor changes to the Cabinet paper since we provided you a draft on 28 November 2023

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### We have amended the Cabinet paper to reflect your decision about grant funding for bargaining parties and other requested changes

6. We amended the Cabinet paper to reflect your decision to seek Cabinet approval to stop providing new grant funding while the FPA legislation is being repealed. This change is made in paragraph 23 and recommendation 10.
7. We have added in new paragraph four and 13 which provide more detail on the rationale for requiring the Bill to be considered under urgency, on request of your office. The rationale includes that a standard parliamentary process increases the risk that an FPA is finalised while the FPA legislation is being repealed, which would then increase the complexity associated with the repeal Bill.
8. We also amended paragraph 22 (and the corresponding footnote) to make a correction to the amount of funding that had been dispersed, as five (not six) bargaining sides have received the additional contribution of \$25,000.

### We received minor feedback from Cabinet Office on the draft Cabinet paper that has now been reflected in the Cabinet paper

9. We received feedback from the Cabinet Office on the recommendations in the Cabinet paper, since we sent it to you. They suggested the following minor changes that have been amended in the Cabinet paper:
  - a. Minor amendments to recommendation seven to clarify that the Bill should be added to the next legislative programme with the intention that it be passed by the end of 2023.
  - b. Minor amendments to recommendation eight and paragraph 18 to reflect the intention that there will not be any Cabinet Legislative Committee sittings for the remainder of 2023.
  - c. Changing recommendation nine from an 'agree' recommendation to a 'noting' recommendation about the Bill needing to pass through the parliamentary stages under urgency. This reflects that standard practice that urgency is undertaken by a motion in

the House, by the Minister in charge of the Bill (as opposed to agreed by Cabinet). This means you will need to file a motion to move that the Bill be passed through all parliamentary stages under urgency. Your office may wish to confirm this process and the wording of the motion with the office for the Leader of the House. This change is also reflected in paragraph 20 of the paper.

## Next steps

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10. Once you have approved the final Cabinet paper:
  - a. MBIE officials will load the Cabinet paper, FPA RIS Coversheet, and the 2021 FPA RIS in Cabinet and,
  - b. notify your office when it is ready for their approval for lodging.
11. Once the Cabinet paper, Coversheet to the FPA RIS, and the 2021 FPA RIS are lodged, there are a number of steps that need to happen in quick succession with the intention now being that Cabinet considers the Cabinet paper to introduce the Bill on Monday, 11 December 2023. These are set out below.

Key stage	Timeframe
Cabinet considers policy Cabinet paper	4 December
MBIE to provide you with a draft Cabinet paper to introduce Bill	5 December
Your review of Cabinet paper	6 December
MBIE updates Cabinet paper to reflect any changes you ask for, and sends final to your office	7 December
PCO draft the Bill	4-7 December
Ministry of Justice undertake Bill of Rights vet on Bill	7 December
Lodge Cabinet paper to introduce Bill (late lodgement)	8 December
Cabinet considers Cabinet paper to introduce Bill	11 December
Bill introduced and all parliamentary stages undertaken (approx.)	12-13 December
Royal assent (approx.)	14-15 December

## Annexes

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Annex One: Talking points for the Cabinet meeting on Monday, 4 December 2023

Annex Two: Cabinet Paper – Repeal of the Fair Pay Agreements legislation (marked up version for review)

Annex Three: Cabinet Paper – Repeal of the Fair Pay Agreements legislation (final version for lodgement)

Annex Four: Coversheet to Fair Pay Agreements Regulatory Impact Statement 2023

Annex Five: Fair Pay Agreements Regulatory Impact Statement 2021

## Annex One: Talking points for the Cabinet meeting on Monday, 4 December 2023

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- We have committed to repealing the FPA legislation by Christmas 2023 as part of the Coalition Agreement between the National Party and the ACT party.
- I seek Cabinet's agreement to repeal the FPA legislation and all amendments made to other Acts or Regulations that relate to the FPA system.
- As no agreements have been finalised in any industry or occupation, there are no transitional arrangements required for the FPAs that have been initiated. s 9(2)(h)
- Cabinet had previously decided that Bargaining Sides should be able to apply for and receive funding to contribute to the costs associated with bargaining.
- I do not consider it is appropriate to continue providing this grant funding when the system is being repealed, so I seek Cabinet's approval to stop it being provided from tomorrow. This means applications that have already been received but not yet approved will not receive the funding.
- To repeal the FPA legislation by Christmas, the Bill will need to be considered directly by Cabinet on 11 December and pass through all parliamentary stages under urgency. To ensure this occurs, I intend to seek a motion that the Bill be passed through all stages under urgency.

*If you would like to describe the reasons for repealing the FPA legislation:*

- Our reasons for repealing the FPA legislation are:
  - The FPA system removes the flexibility for employers and employees to agree terms that suit their unique situation by setting the same minimum terms and conditions for all employees within coverage, regardless of the size of the business, or the way it operates.
  - This undermines the flexible labour market which has been a pillar for New Zealand's economic success for the past three decades.
- The quicker this Act is repealed the sooner businesses can have certainty that no new requirements will be added to the minimum employment terms they currently need to provide their employees.

*If you would like to mention retaining the technical change to express fees as GST-free*

- I am seeking agreement to retain a technical change made to the Employment Court Regulations 2000 that expressed the fees for forms applying to the Employment Court to be GST-exclusive.
- This change was made to prevent confusion as the fees included in the regulations are different from what the Employment Court can charge because GST increased in 2010.
- The Bill would, therefore, remove the reference to FPA forms (and associated fees) in the *Employment Court Regulations 2000* but the fees for the non-FPA forms would continue to be expressed as GST-exclusive.

*If you are asked about what is happening with the funding of the FPA system*

- MBIE and the Employment Relations Authority received funding to operationalise the FPA system. I have received advice about this funding and am currently considering it.

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**Annex Two: Cabinet Paper – Repeal of the Fair Pay Agreements  
legislation (marked up version for review)**

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**Annex Three: Cabinet Paper – Repeal of the Fair Pay Agreements  
legislation (final version for lodgement)**

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**Annex Four: Coversheet to Fair Pay Agreements Regulatory Impact Statement 2023**

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**Annex Five: Fair Pay Agreements Regulatory Impact Statement  
2021**

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## BRIEFING

### Final Cabinet Paper – Fair Pay Agreements Act Repeal Bill: Approval for Introduction

Date:	7 December 2023	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	2324-1140

Action sought		
	Action sought	Deadline
Hon Brooke van Velden Minister for Workplace Relations & Safety	Agree to lodge the Cabinet paper <i>Fair Pay Agreements Act Repeal Bill – Approval for Introduction</i> with the Cabinet Office on Friday, 8 December 2023.	8 December 2023

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Beth Goodwin	Manager, Employment Relations Policy	04 901 1611	s 9(2)(a)	✓
Stacey Campbell	Senior Policy Advisor, Employment Relations Policy	04 901 4139		

The following departments/agencies have been consulted

Minister's office to complete:

- |                                               |                                              |
|-----------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
| <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
| <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn           |

Comments



# BRIEFING

## Final Cabinet Paper – Fair Pay Agreements Act Repeal Bill: Approval for Introduction

<b>Date:</b>	7 December 2023	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2324-1140

### Purpose

This briefing provides you with the final Cabinet paper *Fair Pay Agreements Act Repeal Bill: Approval for Introduction* and seeks your agreement to lodge the paper. It also provides talking points for the Cabinet meeting on Monday, 11 December 2023.

### Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** the Fair Pay Agreements Act Repeal Bill has now been drafted. Noted
- b s 9(2)(h) and s 9(2)(f)(iv) Noted
- c **Note** the intention is for the Cabinet paper *Repeal of the Fair Pay Agreements legislation* to go straight to Cabinet for consideration on Monday, 11 December 2023. Noted
- d **Agree** to lodge the Cabinet paper *Fair Pay Agreements Act Repeal Bill: Approval for Introduction* with Cabinet Office on Friday, 8 December 2023. Agree / Disagree
- e **Note** your office has indicated that the FPA Repeal Bill will form part of a larger urgency motion (with multiple Bills), in which case the Leader of the House will take the urgency motion. Noted
- f **Agree** to provide the legislative statement on the FPA Repeal Bill to the Leader of the House, Clerk, and the Leader, whip, or relevant spokesperson of each party by the end of the day on 11 December. Agree / Disagree

g **Note** that Cabinet Circular CO (20) 2 requires MBIE's Regulatory Impact Statement to be published, with a link to the publication required in the Bill.

*Noted*



Beth Goodwin  
**Manager, Employment Relations Policy**  
Labour, Science, and Enterprise, MBIE

07 / 12 / 23

Hon Brooke van Velden  
**Minister for Workplace Relations & Safety**

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## Background

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1. The National and ACT parties' coalition agreement committed to repealing the Fair Pay Agreements (FPA) regime by Christmas.
2. On 4 December 2023, Cabinet agreed to repeal the Fair Pay Agreements Legislation and to instruct the Parliamentary Counsel Office (PCO) to draft a Bill to reflect that decision (see CAB-23-MIN-0470).
3. On 5 December, we provided you with a draft Cabinet paper and a first draft of the Fair Pay Agreements Act Repeal Bill (FPA Repeal Bill).

## This briefing provides you a series of required documents

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### Cabinet paper

4. We made minor changes to the Cabinet paper at paragraph 11, as suggested by your office. The final Cabinet paper is attached at **Annex Two** which, subject to your approval, is ready for lodgement on 8 December 2023.

### The final Bill

5. The final Bill is attached at **Annex Three**. The Ministry of Justice has reviewed the Bill for compliance with the *New Zealand Bill of Rights 1990*, and has advised the Attorney-General. As is normal practice, we have not seen that advice, but we are confident Justice would have alerted us if there were any issues. We expect that this advice will be forwarded to you by the Attorney-General, once the Attorney-General has considered it. Once your office is ready to lodge the Cabinet paper, we will notify PCO that it can lodge the final Bill with Cabinet Office.

### Departmental Disclosure Statement

6. A Departmental Disclosure Statement is attached as **Annex Four**. A Departmental Disclosure Statement is required by Cabinet Circular CO (13) 3 for all government Bills (unless exempt) and must be attached to the Cabinet paper seeking approval to introduce the Bill.

### Talking points for Cabinet

7. We have also provided talking points at **Annex One** to support you at Cabinet on Monday, 11 December 2023.

## It's standard to publish the Regulatory Impact Statement that accompanies a Bill

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8. When the FPA Repeal Bill is introduced, Cabinet Circular CO (20) 2 requires that the accompanying Regulatory Impact Statements (RIS) are published. MBIE will publish the 2023 FPA RIS Coversheet on MBIE's website on introduction (the 2021 FPA RIS has already been published). s 9(2)(f)(iv)

s 9(2)(h)

## There are two ways in which a Bill can be accorded urgency in the House

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14. There are two types of urgency motions depending on whether urgency is to be accorded to one Bill or multiple Bills.
  - a. **Minister-led urgency motion.** If it is intended that only the FPA Repeal Bill is to be heard under urgency, then you, as the Minister responsible for the FPA Repeal Bill would move that the Bill be heard under urgency.
  - b. **Government motion for multiple Bills to be considered under urgency.** Where more than one Bill is to be heard under urgency, then the urgency motion is undertaken by the Leader of the House.
15. Your office has indicated that the intention is for FPA Repeal Bill to form part of a larger urgency motion (with multiple Bills), meaning the Leader of the House will take the urgency motion.
16. If this changes and only the FPA Repeal Bill was to be heard under urgency, then you, as the Minister in charge of the FPA Repeal Bill, would need to move the urgency motion after the completion of general business and prior to the Bill being introduced. When moving the motion, the Minister in charge must inform the House of the circumstances that warrant a claim for urgency.

## We have prepared a legislative statement explaining the key aspects of the FPA Repeal Bill to be presented to the House

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17. A legislative statement is an optional paper, presented by the Minister in charge, which includes information that the Minister considers important to inform the House about the Bill (under 272 of the Standing Orders). Your office indicated that you would like one to be developed.
18. MBIE has prepared a legislative statement for the FPA Repeal Bill, which is attached as **Annex Five**. Only one legislative statement is required for a Bill if all parliamentary stages are undertaken through urgency (typically, a Minister would present a legislative statement before moving the first, second and third reading of the Bill).
19. In order for the legislative statement to be presented to the House, it must first be circulated to the Clerk, and to the Leader, whip, or relevant spokesperson of each party. Ideally the legislative statement should also be submitted to the Leader of the House's Office a few hours before a Bill under urgency is to be moved.
20. If you approve the attached legislative statement, we recommend that your office circulates the legislative statement as directed by the Standing Orders, by the end of the day on Monday, 11 December.

### Next steps

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21. Once you have approved the final Cabinet paper and FPA Repeal Bill:
  - a. MBIE officials will load the Cabinet paper and Departmental Disclosure Statement in CabNet and notify your office when the Cabinet paper is ready for their approval for lodging.
  - b. MBIE officials will notify PCO that it can lodge the FPA Repeal Bill.
22. MBIE will send through a House pack with materials to support you during the parliamentary stages on Friday, 8 December. This pack will contain:
  - a. Talking points to use as the basis for your first, second and third reading speeches.
  - b. The legislative statement.
  - c. An explanation of each clause of the Bill and what it does.
  - d. Potential Q&As that may be asked in relation to the Bill.
  - e. The Cabinet papers, 2021 Regulatory Impact Statement (RIS), 2023 RIS Coversheet, Departmental Disclosure Statement.

Key stage	Timeframe
Lodge Cabinet paper to introduce Bill (late lodgement)	8 December
MBIE provides your House pack	8 December
Cabinet considers Cabinet paper to introduce Bill	11 December
Bill introduced and all parliamentary stages undertaken (approx.)	12-13 December
Royal assent (approx.)	14-15 December

## **Annexes**

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Annex One: Talking points for the Cabinet meeting on Monday, 11 December 2023

Annex Two: Cabinet Paper – Fair Pay Agreements Act Repeal Bill: Approval for Introduction (final version for lodgement)

Annex Three: Fair Pay Agreements Act Repeal Bill (final to be lodged by PCO)

Annex Four: Fair Pay Agreements Act Repeal Bill – Departmental Disclosure Statement

Annex Five: Fair Pay Agreements Act Repeal Bill – Legislative Statement

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## Annex One: Talking points for your Cabinet meeting on Monday, 11 December 2023

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- We have committed to repealing the FPA legislation by Christmas 2023 as part of the Coalition agreement between the National Party and the ACT party.
- The Fair Pay Agreements Act Repeal Bill has now been drafted and is ready for introduction.
- I understand it has been reviewed for consistency with the *New Zealand Bill of Rights Act 1990* by the Ministry of Justice, and I have not been notified of any issues arising in that review.
- In order for the Bill to be passed before Christmas 2023, the Bill will be passed through all the parliamentary stages under urgency.

*If you want to outline what the Bill does:*

- The Bill will repeal the *Fair Pay Agreements Act 2022* and the *Fair Pay Agreements Regulations 2022*.
- It also reverses a number of consequential amendments made by the *Fair Pay Agreements Act 2022* to other Acts.
- Lastly, it reverses amendments made to the *Employment Court Regulations 2000* and the *Employment Relations Authority Regulations 2000*.
- As no agreements have been finalised in any industry or occupation, there are no transitional arrangements required for the FPAs that have been initiated.
- Once the legislation is repealed, bargaining for these FPAs will cease.

**Annex Two: Cabinet Paper – Fair Pay Agreements Act Repeal Bill:  
Approval for Introduction (final version for lodgement)**

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**Annex Three: Fair Pay Agreements Act Repeal Bill (final to be lodged by PCO)**

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**Annex Four: Fair Pay Agreements Act Repeal Bill – Departmental Disclosure Statement**

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**Annex Five: Fair Pay Agreements Act Repeal Bill – Legislative Statement**

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