



# Fair Pay Agreements

Nelson Tasman Chamber of Commerce

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litigation

# Overview

- **Theory**
- **What are they?**
- **How do they come about?**
- **Who will negotiate them?**
- **What will they contain?**
- **Practical considerations**



# Theory

- Enhance employee's bargaining power
- Set a new 'floor' for specific industries or occupations
- Improving productivity

A dimly lit office with rows of desks and people working. The office has a modern, industrial feel with exposed ceiling pipes and long, narrow light fixtures. People are seated at desks, some looking at laptops, others talking. The overall atmosphere is busy but quiet.

## What are they?

- Effectively supersized collective employment agreements
- Not expected to cover all aspects of employment, but set minimum terms and conditions
- Designed to cover relatively lowly paid industries, but not limited

## How do they come about?

- An eligible union must apply to MBIE using one of two tests:
  - The “representation test”, where either 1,000 workers or 10% of a specified workforce support the application;
  - The “public interest test”, where workers are lowly paid and:
    - Have little bargaining power at work, or
    - Have a lack of pay progression at work, or
    - Are lowly paid considering factors like long hours, night shifts, weekends or uncertainty of employment

## Then what?

- The initiating union must use 'best endeavours' to identify all unions and employers covered by the proposed FPA
- Anyone identified must be provided (by the employer) with an approved form stating:
  - Employers must provide contact details for covered employees (unless employee opts out)
  - Explanation as to why contact details are needed, how they will be used, who the information can be provided to, and the consequences of not providing them
- Employers must also pass on a union drafted statement with information about the FPA



## Then what?

- **Employee and Employer Bargaining Sides are formed:**
  - **Employee Bargaining Sides:**
    - Initiating union;
    - Any other union may apply to join
  - **Employer Bargaining Sides:**
    - Relevant Industry Association;
    - Public Service Commission;
    - Specific Employer Bargaining Party
- **What if no one steps forward?**



# Contents


- **All FPAs must contain:**
  - Term (between three and five years)
  - Coverage
  - Standard working hours
  - Wages, including overtime and penalty rates
  - Training and development arrangements
  - Leave entitlements
- **Can have district variations, and differentiate between occupations or roles**
- **Can contain starting out or training wages**

# Mandatory discussions

- **Bargaining sides are required to discuss (but not agree on):**
  - Objectives of the FPA
  - Health and safety requirements
  - Flexible working arrangements
  - Redundancy arrangements

## Other matters

- Parties can seek a recommendation from the ERA
- Each bargaining side will be provided with up to \$50,000 for expenses
- MBIE will set up “Bargaining Support Services”
- If no agreement parties are directed to mediation (unless it won't practically advance the position)
- If still no agreement ERA can fix terms
- ERA has to approve any agreed FPA to ensure compliance
- Ratification by simple majority of each side
- To be covered, an employee must have 25% of their work covered by the FPA. The Labour Inspector is the final arbiter of coverage

A photograph of agricultural workers in a field. In the foreground, a worker wearing a grey hoodie and blue jeans is seen from behind, carrying a large wooden crate on their head. They are walking through rows of green plants. In the background, other workers are visible, some bent over working. The scene is set in a vast, open field under a clear sky.

## Practical matters: Union access

- Unions will be able to access workplaces to discuss matters relating to the FPA
- Must not unduly disrupt business operations
- Must comply with health and safety requirements
- Discussions with employees must be of a reasonable duration
- Can relate to compliance with the FPA

An aerial photograph of a construction site. The foreground shows a concrete slab with several workers in safety vests and hard hats. The middle ground is filled with a dense grid of rebar for a concrete pour. The background shows more of the construction site with various materials and structures.

## Practical matters: FPA meetings

- Employees entitled to attend two FPA meetings
- No longer than two hours
- Must be arranged 14 days in advance and ensure business is maintained
- Full pay

# Practical matters: The FPA

- Cannot contract out
- Any terms inconsistent and inferior are replaced with FPA terms
- Any terms inconsistent and superior remain

A person with glasses and a scarf is sitting at a desk, holding a cup and looking at a laptop. The scene is dimly lit, suggesting an office or study environment. The text 'Questions and discussion' is overlaid in a bright blue color.

## Questions and discussion



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