

Fair Pay Agreements Bill submission

Introduction

The New Zealand Construction Industry Council (NZCIC) is the cohesive voice driving industry well-being and performance for a better built environment for New Zealand.

NZCIC is a not-for-profit peak industry association representing around 35 member organisations involved in the delivery of our built environment. Our member associations cover all aspects of the construction industry including contractors, workforce, manufacturers and suppliers, design, research, and compliance. [nzcic membership](#)

NZCIC membership spans an extremely broad range of interests, this submission represents the majority view of the NZCIC membership with some exceptions.

General

NZCIC supports fair pay and conditions for all workers, and most workers in the construction industry are relatively well paid with the majority of experienced workers earning the median wage or more. [careers.govt.nz/](#) [jobted.co.nz/salary#](#) . We acknowledge, there is a low skilled and or casualised portion of the workforce that need greater protection in New Zealand's labour market.

It is unclear how coverage under the Fair Pay Agreements Bill will be determined, whether it be by industry, sector or by trade/service. This uncertainty makes it very difficult to predict how a Fair Pay Agreement (FPA) might be implemented and there are serious concerns about who would negotiate these agreements for employers. In particular some parts of the industry such as labour hire have no natural representative for such negotiations.

The construction industry is under considerable financial and commercial pressure with supply chain shortages and delays, skills shortages and strong inflationary pressure on material and labour inputs. Wholesale introduction of FPAs, without careful analysis of the wider drivers could have significant consequences for employers who are tied to fixed supply contracts with the unintended consequences of layoffs, further casualisation of labour and business closures.

Specific comments:

1. Construction is a complex industry with a fragmented and specialised supply chain. The FPA Bill is unclear about how coverage would be implemented in the construction industry, with possible FPA by industry (all of construction), sector (e.g., civil construction, commercial construction, residential construction) or by trade/service (e.g., carpenter, plumber, roofer, labourer, paver). Regardless of how coverage is determined, construction industry associations will be pressured to negotiate FPAs on behalf of all employers in their sector. Industry associations are not resourced to negotiate FPAs and will also be representing non-affiliated businesses. There is a real risk of reputational damage from a FPA which is not popular across the sector and members of industry associations will be carrying the cost of negotiations for businesses who are non-affiliated.
2. Business NZ has stated it does not want to be the default bargaining party to FPAs, meaning if an industry association, or group of associations does not accept the role of bargaining agent,

the FPA will be determined by the Employment Relations Authority, who will have little context of the industry drivers and potential unintended negative consequences.

3. The construction sector has experienced a sustained period of growth for more than a decade and is under immense pressure to meet demand while struggling with supply chain issues and labour shortages. Wage inflation has outstripped increases in charge out rates in many cases and businesses are under further pressure from materials price escalations. Productivity is under pressure from supply chain shortages in both material and labour. The construction industry is made up predominantly of small and medium businesses who are very vulnerable if labour rates move significantly, especially if the business is tied to fixed price, long term contracts, for example Kainga Ora maintenance contracts.
4. Wages within the construction sector have been driven up by pressure within the industry. Employers cannot find labour, either skilled or unskilled, unless they are prepared to pay good rates and provide good working conditions. These market conditions are not expected to change with a strong forward pipeline of work. Arguably the current bargaining arrangement has worked well for the majority employees and employers, providing the flexibility required in an industry predominantly made up by small businesses.
5. Moving to FPAs in construction is not likely to result in higher pay or improved conditions for most workers and may discourage many small businesses from employing more staff, or even downsizing.
6. Some targeted focus on the casual labour market to prevent exploitative and or predatory practices for vulnerable workers may be warranted. The mechanisms for how this could involve strengthening focus from the labour inspectorate in the first instance and a mix of interventions, not necessarily a FPA.
7. There is a strong possibility that employers will want to avoid an FPA by replacing waged staff with contractors or using third party labour hire providers.
8. FPAs will be costly and time consuming to negotiate and manage for government and industry, while removing flexibility from workplaces. It is difficult to see how an FPA will work better than the current system while having significant risk of unintended consequences.

Summary

The majority of workers in the construction industry are well paid, and the current wage bargaining system has worked well for employees and employers, albeit there are issues to be resolved for vulnerable workers in casual labour environments that could benefit from a range of targeted interventions.

FPAs are very likely to result in the agreements being set by the Employment Relations Authority, effectively taking wage bargaining away from those most effected, negating the intent of the FPA Bill.

NZCIC acknowledges that vulnerable workers need better protection from predatory and exploitative practices, and we are eager to work with government to identify targeted initiatives that will support these workers within our industry. However, NZCIC believes the risk of unintended consequences of the FPA Bill to workers and employers in the construction industry has the potential to outweigh any benefits of an FPA.

Contact NZCIC

For any questions regarding this submission, please email graham@nzcic.co.nz or phone Graham Burke 0212493459