19 October 2022

Education and Workforce Select Committee
Parliament Buildings
Wellington

RE: FAIR PAY AGREEMENTS BILL REPORT

Tenā koutou Chair and Committee Members,

Hospitality New Zealand (Hospitality NZ) is a member-led, not-for-profit organisation representing over 2,500 businesses, ranging across cafés, restaurants, bars, nightclubs, commercial accommodation, country hotels, and off-licences. We have a 120-year history of advocating on behalf of the hospitality and tourism sector.

We have a number of concerns with the way the Bill has proceeded following its amendments.

Firstly, we do not feel that appropriate consideration has been given to those voices opposing Fair Pay Agreements. Submissions should be considered on substance and not a purely for vs against approach. We note E tū Union stating they submitted 1100 submissions – a templated form, making up a substantial chunk of the 1,796 written submissions received by the Committee. When an organisation like ours submits, we are submitting the view of our 2,500 businesses, and should be viewed as such.

Apart from giving more power to MBIE and the ERA, the changes to the Bill do nothing to address concerns and confusion about who bargaining parities will be in FPA negotiations, or to deal with confusion about who will be covered by what agreement, or do deal with practical difficulties with the integrity of the FPA ratification voting process.

The Bill, as updated, incrementally lowers the threshold for ERA involvement and decision making, as well as for influence in the process. This builds upon a what was already a vast intrusion and regulation of the day to day working lives of ordinary New Zealanders' lives by executive government.

The Bill, as updated, allows MBIE to collect personal information about people covered by FPAs (which could eventually be the bulk of New Zealand's workforce). This represents a serious incursion into the privacy of New Zealanders by central government.

The Bill, as updated, continues concern at the extent to which employers are expected to be a conduit of information, and that employers passing on union information to employees and employee information to unions is effectively asking employers to promote unions, or to facilitation self-promotion by unions. It is also requiring employers to provide information to employees about the proposed FPA which is not a natural fit for employers to be providing (which amounts promotion of the FPA, and borders on promotion of the Union/s). The onus of providing this information should be on Unions, not employers.

The Bill, as updated, restricts the legal right to undertake judicial review. This is unconstitutional, and an extraordinary inclusion. This Bill not only grants massive powers to government organisations, but also takes away the Courts' ability to provide check and balances in cases of abuses of power by executive government.

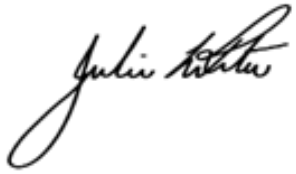
The majority of New Zealand business, and many ordinary New Zealand workers, are and remain against this new regime. The many and serious concerns expressed by the these opposed to the Bill have been ignored. The changes to the Bill generally do nothing to address those concerns (and, in some cases, make things worse). Those concerns include:

- Issues of compulsion – which detract from New Zealanders rights of Freedom of Association, and breach of New Zealand's international treaty obligations.
- That it is a very complex, expensive and unaffordable system for New Zealanders.
- Industrial relations in New Zealand is not broken; so if it's not broken, don't try to fix it (and, if it does need fixing, don't use a sledge hammer to crack a nut).
- One size does not fit all. This new regime allows very little scope to recognise individual circumstances of businesses, which will be especially difficult for many small businesses to adapt to.
- Workers will not get the full benefit of increases (and more holistic approach from Government is needed).
- FPAs will lead to an inability to "stack" roles (workers in small businesses often do multiple roles).
- This slow and unwieldy system will result in a loss of ability to quickly pivot (which business need to be able to do in a crisis, such as the Canterbury Earthquake or the Covid-19 pandemic).

What is perhaps most disappointing is the Government's refusal to entertain a degree of compromise that might well have achieved sustainable FPA industrial relations laws. However, the regime set out in the Bill remains so impractical and unwieldy that opposition political parties remain committed to repealing it. A more flexible approach could result in enduring legislation – FPAs as they stand clearly won't be.

Please do not hesitate to contact me if you have any further questions. I look forward to your response.

Ngā mihi nui,



Julie White
Chief Executive
Hospitality New Zealand