



**METHODIST
ALLIANCE**
NGA PURAPURA WETERIANA

**Submission to the Education and
Workforce Committee
on the
Fair Pay Agreements Bill
17 May 2022**

This submission is from:

The Methodist Alliance
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Fair Pay Agreements Bill

1. Who we are

- 1.1 The Methodist Alliance is a formal alliance of Methodist Missions, parishes and community based social services and trusts, including cooperating ventures. This grouping constitutes a major provider of a range of services for tamariki/children, rangatahi/young people, and their families/whānau.
- 1.2 The Methodist Alliance brings together a number of large and medium social service providers such as Lifewise in Auckland, Methodist City Acton in Hamilton, Palmerston North Methodist Social Services, Wesley Community Action in Wellington, Christchurch Methodist Mission, Methodist Mission Southern in Dunedin, as well as local community services provided by individual parishes. It includes new social service organisations, for example: Siaola Vahefonua Tongan Methodist Mission; Puna'Oa - the Samoan Methodist Mission that operates within the Samoan Synod of the Methodist Church; and Te Taha Māori.
- 1.3 The Methodist Alliance is grounded in a commitment to Te Tiriti o Waitangi and the bi-cultural journey of the Methodist Church of New Zealand - Te Hāhi Weteriana o Aotearoa, where Te Taha Māori and Tauwiwi work in partnership.

2. Overview

- 2.1 The purpose of this Bill aligns with the Methodist Alliance's vision for a just society in which all people flourish.
- 2.2 We agree and support the objective of the Bill to improve labour market outcomes in Aotearoa New Zealand by providing a framework for collective bargaining.
- 2.3 We support the obligations to bargain in good faith, and the penalties on employers provided in s21 who try to avoid the coverage of a fair pay agreement by engaging people as independent contractors rather than employees.
- 2.4 We support the obligation on bargaining parties in s54 to use their best endeavours to ensure that Māori employees are represented effectively in the bargaining process. However, we recommend that this is strengthened to make it mandatory for both parties to actively seek Māori engagement and participation in the bargaining process.
- 2.5 We support the sections relating to employees' rights to attend fair pay agreement meetings.
- 2.6 Further clarity is needed to explain what happens to affected employees after a fair pay agreement has expired and before a new fair pay agreement comes into force.
- 2.7 We do not support the limitation placed on the right to strike made in s25.

- 2.8 Further clarity is also needed for sections 88 - 91 where access to workplaces may be denied.
- 2.9 We believe that fair pay agreements should include terms relating to redundancy, skills, training, flexible working, leave and health and safety.
- 2.10 We note the need for Government contracts to recognise contracted providers obligations under a fair pay agreement.
- 2.11 We support Parliamentary paper G.46C which provides for a default bargaining party.
- 2.12 The Bill ensures that fair pay agreements are not contrary to provisions of the Minimum Wage Act, which we support. However, we would encourage the Government to bridge the gap between the minimum wage and living wage to reduce poverty in Aotearoa New Zealand.

3. Support for the Bill

- 3.1 The Methodist Alliance supports the Bill's intent to provide a framework for collective bargaining for fair pay agreements that specify industry-wide or occupation-wide minimum employment terms.
- 3.2 Other countries like Sweden, Denmark and Germany, where there are high levels of collective bargaining, have associated this with keeping wages elevated and economic inequality in check.¹
- 3.3 We support the good faith obligations set out in sections 17 to 19 and the penalties for breaching the duty of good faith set out in s20.
- 3.4 We support s21 which imposes penalties on employers who try to avoid the coverage of a fair pay agreement by engaging people as independent contractors rather than employees. This safeguard protects employees who may otherwise find themselves in an employment situation that does not reflect the true nature of their employment relationship. If they were forced or coerced to be an independent contractor it would unfairly place more responsibilities on the employee/contractor than the employer.
- 3.5 We are concerned that the Bill does not protect the rights and employment conditions of independent contractors or how these contracts could be aligned with relevant fair pay agreements. We suggest the Education and Workforce Committee undertakes further work to clarify this.

¹ <https://onlabor.org/the-re-emergence-of-sectoral-bargaining-in-the-us-britain-australia-and-canada/#:~:text=Sectoral%20bargaining%20is%20often%20associated,coverage%20is%20high%20and%20stable%20%E2%80%9C>

- 3.6 We support the obligation imposed on employee bargaining parties by s54 to use their best endeavours to ensure that Māori employees are represented effectively in the bargaining process. With Māori disproportionately represented in lower-income brackets, and spending a higher proportion of their income on housing, we hope this section will give Māori a stronger voice in bargaining for a fair pay agreement. However, we note that often “best endeavours” are often not adequate to ensure the voices of Māori are heard. We recommend that this is strengthened to make it mandatory for both parties to actively seek Māori engagement and participation in the bargaining process.
- 3.7 The Methodist Alliance supports sections 82 - 84 in relation to employees’ entitlements to attend fair pay agreement meetings, payment for attending, and attending additional meetings.
- 3.8 We also support the certainty provided by s186 which provides for the continuation of a fair pay agreement when a party has applied for approval to initiate bargaining for a renewal, to the date on which the renewed fair pay agreement comes into force.
- 3.9 However, we are interested to know what happens in the circumstances of S186(c) where the chief executive notifies the applicant that their application for approval to start bargaining to renew the agreement has been declined.
- 3.10 If a fair pay agreement has expired and no application to renew or replace has been made, are employers able to hire new employees on terms contrary to the expired fair pay agreement? The Bill makes it clear that a replacement agreement comes into force on the date specified in that agreement, but is silent as to what happens during the period after expiry of the old fair pay agreement and the replacement agreement.
- 3.11 We support Parliamentary paper G.46C which provides for a default bargaining party where no eligible representative volunteers to be the bargaining party; and also provides for the Authority to set terms for a fair pay agreement where the default bargaining party chooses not to step in.

4. Concerns about the Bill

- 4.1 S25 makes strikes and lockouts unlawful in relation to bargaining, unless there are reasonable grounds for believing that the strike or lockout is justified on the grounds of safety or health.

We note this is in stark contrast to s83 of the Employment Relations Act 2000 which specifically preserves the right to strike or lock out in relation to collective bargaining.

We do not support the limitations on strikes and lockouts proposed by s25 and strongly advocate for the retention of workers right to strike as preserved by S83 of the Employment Relations Act 2000.

- 4.2 The wording of s91 may need further work as it does not appear to take into account the previous sections 88 - 90 relating to when access to workplaces may be denied.
- 4.3 Clause 114 sets out the mandatory content of the fair pay agreements, however this is limited to minimum base wage rates, overtime rates, penalty rates, and normal hours of work. We believe that any fair pay agreement should also cover redundancy, skills, training, flexible working, leave and health and safety. We note that these are topics that bargaining sides **must** discuss in accordance with s115(1), but their inclusion in any fair pay agreement is optional under s115(2). It seems counterintuitive to make the discussion mandatory for these topics, but their inclusion optional, especially when there is a high incidence of health and safety violations and reports of stress, fatigue and depression amongst workers.
- 4.4 At present there is significant disparities and inequalities between the non-government organisations (NGO) workforce and the Government workforce. This has meant that NGO employees often move to Government organisations like the Ministry of Social Development, Oranga Tamariki, Kāinga Ora, and District Health Boards as they can offer significantly higher wages.
- 4.5 If a fair pay agreement comes into force for a specific workforce, Government will need to ensure that the relevant government contract takes into account the fair pay agreement. E.g. where a fair pay agreement for social workers comes into force, the Government would need to make appropriate increases in contracting for services with provider NGOs to ensure that the NGO is able to pay their employees the rate under the fair pay agreement and continue to provide services to Government as contracted.

5. Further Reform Needed

- 5.1 S119 states that the minimum entitlement provisions of a fair pay agreement must not be contrary to provisions of the Minimum Wage Act 1983. However we note the minimum wage rate is below the living wage. The living wage reflects what a person needs to pay for the necessities of life and to actively participate in their community. If this disparity is removed, it would be a significant step to reduce poverty in Aotearoa New Zealand.

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