



A new framework for pay equity

Parliament has passed a new pay equity framework, designed to provide a practical and accessible process to raise and consider claims of systemic sex-based pay undervaluation in pay in female-dominated occupations.

In certain occupations where the work is, or was predominately performed by females, wages have been kept lower than occupations where the work has been performed predominately by men. Today's "going market rate" for employing people in those traditionally female dominated occupations may not be a fair or equal rate, but a suppressed wage born out of historical pay discrimination.

New Zealand's equal pay law says that women and men should be paid the same for jobs of equal value, even if the jobs are different. This is called pay equity. Until now, workers have only been able to make claims for pay equity through the courts.

The Equal Pay Amendment Bill will allow workers or unions to make a pay equity claim directly with their employer using a framework that is similar to New Zealand's existing employment relations bargaining framework. By making court a last-resort, the proposed approach will lower the bar for workers or unions to raise a

pay equity claim, and use a collaborative process more familiar to unions and businesses.

Under the Bill, employers, workers and unions will negotiate in good faith, with access to mediation and resolution services available if they are unable to agree.

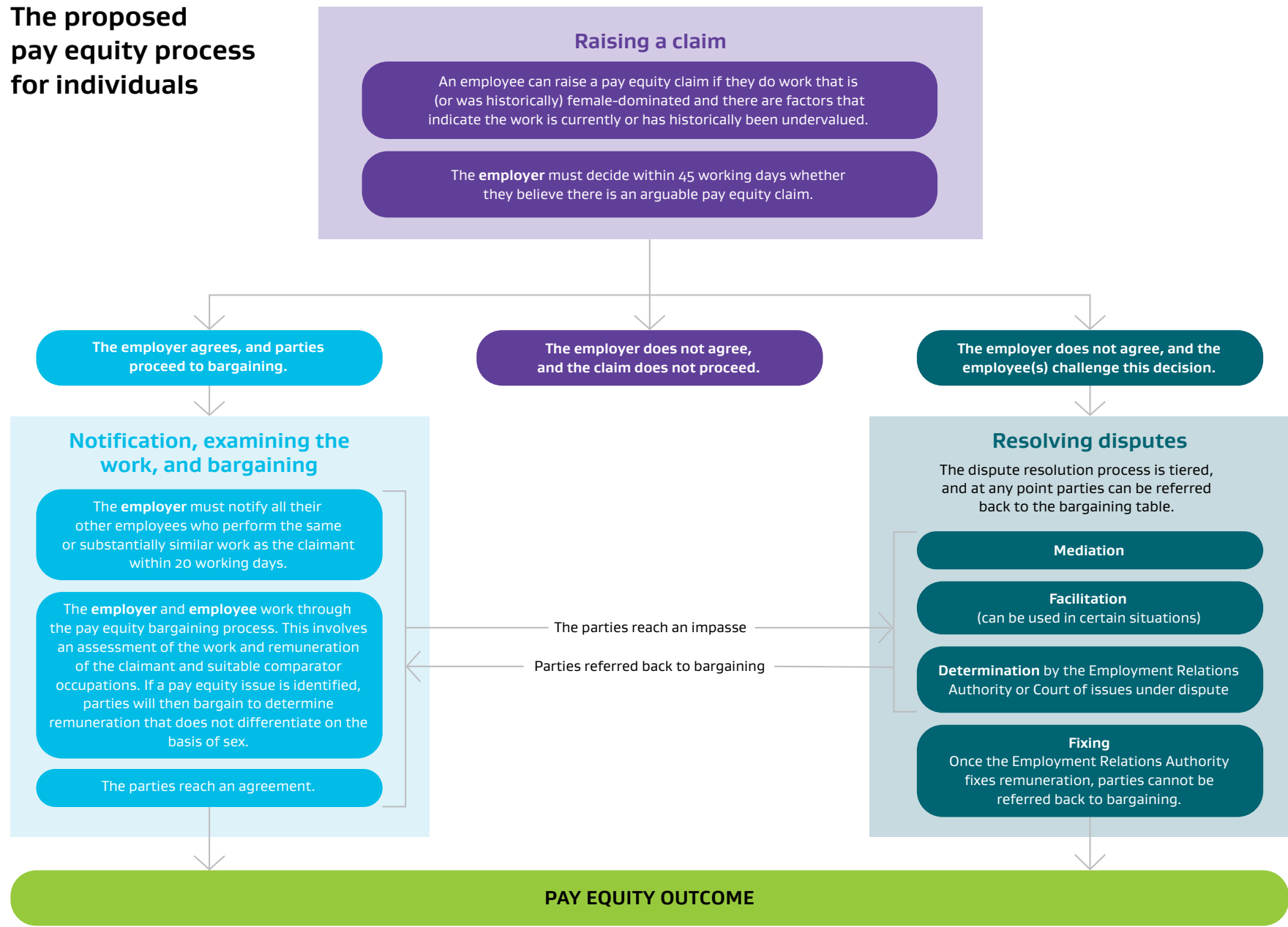
The changes in the Bill will take effect in late October.

Pay equity vs equal pay

Pay equity is about women and men receiving the same pay for doing jobs that are different, but of equal value (that is, jobs that require similar degrees of skills, responsibility and effort).

Equal pay is about men and women getting the same pay for doing the same job. The process for making equal pay claims is largely unaffected by this Bill.

The proposed pay equity process for individuals

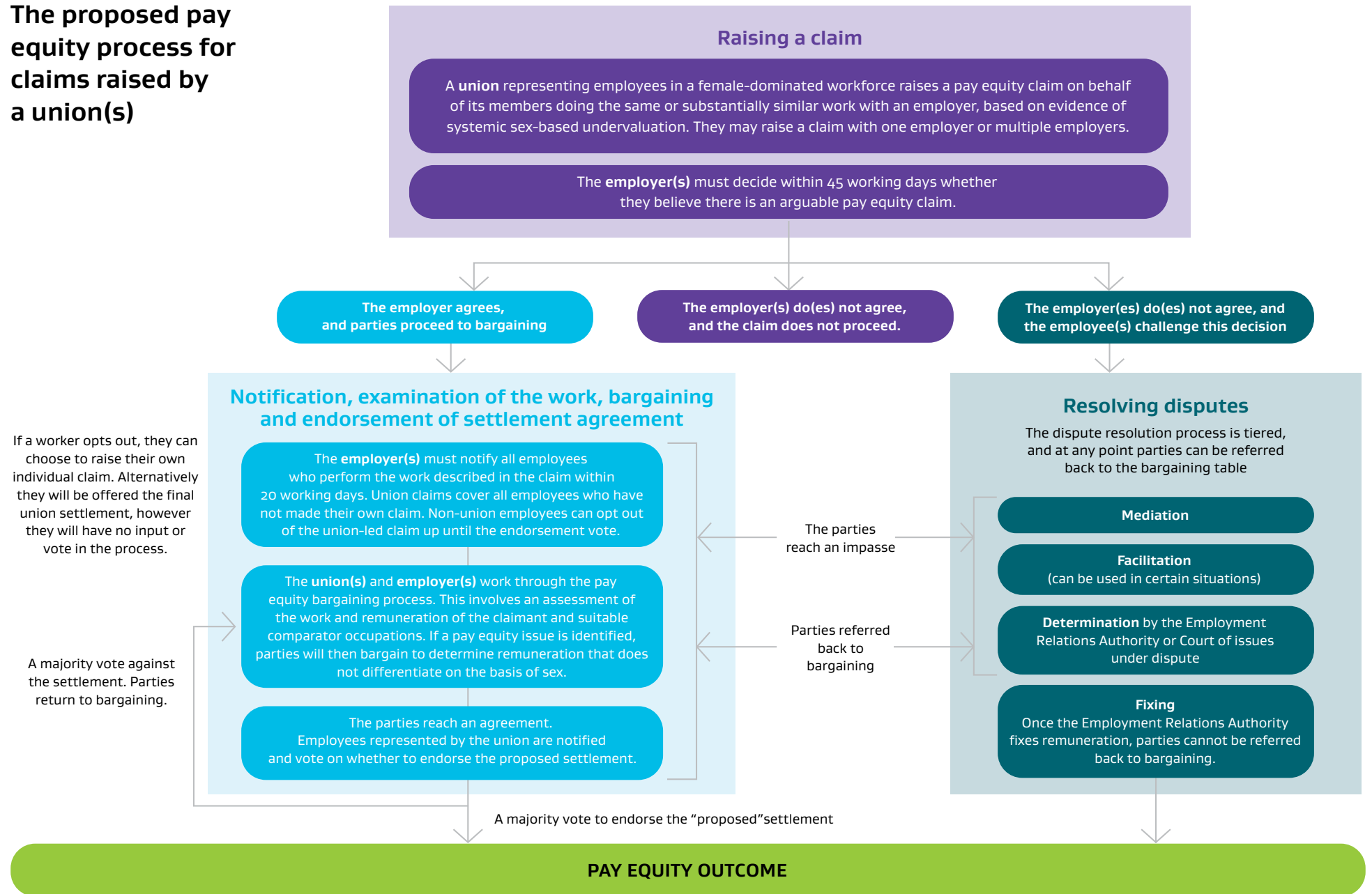


A pay equity outcome includes:

- > a settlement with new wages and possibly new terms and conditions of employment if the parties agree;
- > an agreed (or determined) pay equity review process.

Alternatively, the outcome may be an agreement or determination that pay inequity does not exist.

The proposed pay equity process for claims raised by a union(s)



A pay equity outcome includes:

- > a settlement with new wages and possibly new terms and conditions of employment if the parties agree;
- > an agreed (or determined) pay equity review process.

Alternatively, the outcome may be an agreement or determination that pay inequity does not exist.

A settlement would apply to all employees represented by the union. The settlement will also be offered to employees who opted out of union bargaining.

Components of the proposed pay equity framework

An arguable claim

Employees or unions need to raise an arguable claim, and employers will need to decide if they accept the claim is arguable.

Accepting that a claim is arguable does not mean an employer agrees there is pay inequity, or guarantees there will be a pay equity settlement. Rather it is an acknowledgement that there is an arguable claim, and ensures parties move to good faith bargaining so they can analyse the claim together.

Assessing the work of the claimants and comparators to determine level of pay inequity

The parties to a pay equity claim undertake an assessment process to determine whether the work of the employees is undervalued, on the basis of sex. This involves assessing the work of the claimants and comparing it to the work of suitable comparator occupations not subject to gender-based undervaluation.

Employers and employees will be able to choose comparators that they consider are most relevant and appropriate from the outset, which should create a more efficient process.

These could include comparators performing work that is the same or substantially similar, or different work that involves similar skills and experience, responsibilities, working conditions or degrees of effort.

Comparators serve as a basis for negotiation and do not need to be agreed between employers and employees. Several comparators can be used during negotiations.

Multi-employer bargaining

Unions can raise a pay equity claim on behalf of their members with multiple employers. If an employer believes they have genuine reasons based on reasonable grounds for not being part of the multi-employer process, they need to provide those reasons in writing to the union. If the union and the employer don't agree, they can use the dispute resolution process.

Multi-union claims

In some instances, two unions may represent employees of one employer and both unions may wish to raise a claim. The unions can raise a claim together. If a union has already raised a claim, and a second union raises a claim for the same occupation with the same employer, this must be consolidated with the other union claim. It can be consolidated at any stage in the process.

The dispute resolution process

The dispute resolution process for pay equity bargaining is similar to that for other employment relations matters.

Employment Mediation Services can assist in pay equity bargaining between employers and unions. Their support includes assisting parties to unravel difficult issues and develop options, steering parties back into negotiations, and providing coaching and feedback on behaviour.

When a matter has not been resolved through mediation or other processes, an employee, a union, or employer may apply to have the matter considered by the Employment Relations Authority or the Employment Court.

Addressing claims for back pay

The Bill recognises that pay equity is an issue stemming from structural discrimination, and the issue of pay inequity cannot be attributed to the actions of a single employer. A balanced approach is therefore required.

If parties wish, they will be able to discuss back pay as part of their pay equity bargaining.

Support for workers, unions and businesses

To help workers, businesses and unions understand the different steps in the process, online tools and resources are being developed by the Ministry of Business, Innovation & Employment (MBIE). Support will be available from MBIE's Employment Services during the process to help resolve disputes, and make sure enduring agreements are reached.