



Employment and Workforce Select Committee submission:
The Electrical Contractors Association of NZ (ECANZ)
(Trading as Master Electricians)

19 May 2022

INTRODUCTION

This submission is from The Electrical Contractors Association of NZ (ECANZ) (**Master Electricians**).

Master Electricians supports BusinessNZ's submissions opposing the introduction of the Bill and why it should not proceed. In this submission, we set out our additional reasons applicable to the electrical industry as to why we submit that the Bill should not proceed.

Master Electricians welcomes the opportunity to submit on the Fair Pay Agreements Bill (**the Bill**); we reserve our right to appear before the Select Committee to speak to our submissions.

Who we are: Master Electricians

Master Electricians is the professional trade organisation for electrical contracting businesses in New Zealand. The origins of the Master Electricians date back to 1925 and today we have over 1,200 members, who employ in excess of 7,000 electrical workers, including a large proportion of the apprentices trained nationally.

Master Electricians wholly owns the Electrical Training Company which directly employs over 1,000 apprentices and trains half of the 5,000 electrical apprentices currently employed industry-wide.

WHAT WE ARE SEEKING

Summary: Effect on our industry if the Bill is enacted

Master Electricians opposes the Bill for a number of reasons; outlined below are the impacts this will have on our industry:

It will lead to increased costs for our businesses and disadvantages for apprentices and tradespeople;

It will intensify already problematic capacity and capability issues;

The increased costs will make it too expensive (and not financially viable) to train the next generation;

Our employer members will not be able to afford the costs associated with taking on apprentices;

Employers who train apprentices compete against companies which do not employ and train apprentices. In a FPA landscape, these employers may have to pay their apprentice workers the same amount as their competitors who have a fully certified workforce. Put simply: they will no longer be incentivised to employ and train apprentices.

It will lead to fewer apprentices being trained. This would be contrary to other government policy and inconsistent with support previously offered in the support of apprentices. It would create real problems for the future of the electrical industry with wider implications for New Zealand because of potentially dangerous outcomes resulting from unsafe electrical work. This, in turn, would create implications for the wider construction industry.

It would add uncertainty and increase labour costs, making current fixed price contracts unprofitable, and possibly loss-making, with no way to retrospectively capture the cost increase.

There is also no-one in the industry with the resources to represent employers in both the negotiation and settlement context.

Summary: What the Select Committee needs to do

We recommend that the Bill does not proceed.

We agree with the BusinessNZ submission that any issues the Bill is supposed to address can be dealt with through a system of voluntary collective bargaining built on present provisions for codes of practice and multi-employer collective agreements.

As an alternative, while our strong preference is that the Bill not proceed, if it does, we recommend clauses 122, 123 and 125 of the Bill be amended:

In terms of their applicability to apprentices and those in training, so that:

Apprenticeships are not included in any FPAs;

Apprentices should not be able to initiate a 'union' to negotiate their own separate FPA.

SUPPORT BUSINESS NZ'S SUBMISSION – APPLICATION TO OUR INDUSTRY

Master Electricians supports Business NZ's submission on the Bill to this Select Committee. We wish to make further submissions opposing the Bill and highlighting the consequences we anticipate the Bill (if enacted in its current form) would have in the electrical industry.

THE BILL WILL INCREASE COSTS FOR OUR BUSINESSES AND MAKE TRAINING FUTURE GENERATIONS UNFEASIBLE

Application of the Bill to our industry generally

If the Bill is enacted in its current form, it will have a devastating effect on the electrical industry.
In summary:

It will exacerbate capacity and capability problems;

It will directly increase the already high cost of training apprentice electricians;

It will make it too costly to train future generations, leading to fewer employers prepared (or able) to train apprentices, fewer apprentices and fewer experienced specialists down the line.

Skills shortages currently affecting our industry

Skills shortages are currently a big problem for our industry.

As matters currently stand, the electrical industry is suffering from very significant labour shortages at all levels. The industry simply does not have enough qualified and skilled tradespeople at present. Adding to this, the workforce is aging and there are not enough apprentices coming through; we are barely able to replace qualified tradespeople as they retire.

As an organisation, we're committed to addressing current skills shortages and ensuring future excellence within our industry. However, the costs currently being incurred (even excluding the prospect of FPAs) is making this commitment more and more arduous.

Current costs issues making it hard to train apprentices

While we are committed to addressing these skills shortages in every way we can, the main hurdle for our industry is the high cost of training new electricians. This is especially so, with increases in minimum wage, sick leave and Accident Compensation Commission levies and the compliance costs associated with the Holidays Act 2003 generally (including an extra statutory holiday a year). The electrical industry is particularly vulnerable to these increases.

How FPAs will exacerbate training costs of apprentices

FPAs will exacerbate and directly increase the costs to our members of training apprentices.

If this Bill is passed into legislation, training an electrical worker will become too expensive (and therefore unfeasible), because:

A FPA could implement blanket coverage of minimum terms across all those working in the electrical industry. This would disincentivise firms from taking on apprentices, if those individuals are required to be employed under the same minimum terms as those who are fully certified.

FPA settlements will effectively increase the value of the minimum wage payable to our apprentices. Apprenticeships are highly valuable to society and the economy (and to our members) but they come at significant costs to employers. Wages earned by an apprentice reflect both the cost of training to the employer and the fact that the apprentice is still training, still learning, has low productivity and is not yet certified. It is a significant undertaking for an employer to take on an apprentice and anything that would further increase training costs should be re-examined.

While our apprentice employer members would pay their apprentices more if they could, the reality is that they simply cannot afford to.

Apprentice employers compete against companies who do not employ and train apprentices:

In a FPA landscape, these employers may have to pay their apprentices the same amount as their competitors who have a fully certified workforce. Put simply: they will no longer be incentivised to employ and train apprentices.

To stay competitive and economically viable, our employer members no longer take on apprentice employees.

More broadly, FPAs will cause cost increases, with the detriment being felt at the bottom end of the profession both immediately and in the future, so long as FPAs are in place.

In short: FPAs will make it too costly to train the next generation of electricians.

APPRENTICES ARE CRUCIAL TO THE FUTURE OF THE ELECTRICAL INDUSTRY

Businesses must be supported to employ trainees

As noted above, the electrical industry is primarily supported by an aging workforce.

We expect that if FPAs are applied to apprentices in our industry, the costs of training those apprentices will directly increase by the same amount. In turn, fewer employers will be prepared to take on apprentices at all. Employers will not be able to afford the costs associated with taking on apprentices and training the next generation of electricians.

It is nearly impossible in New Zealand at the moment to find qualified electricians to fill vacancies. Currently, the only way to really grow, and even to maintain, numbers of qualified tradespeople is through apprenticeships.

A reduction in apprenticeships in our industry, which we would expect to see as a result of this Bill, would be detrimental to our industry as a whole and the New Zealand economy more widely. It would also raise risks for public health due to the increased risk of unsafe electrical work being undertaken and/or insufficient electricians to carry out repairs when electrical systems fail.

Apprentices are therefore crucial to our industry but our members need more support.

We acknowledge the following support from Government:

Cabinet has previously recognised the apprenticeships create highly skilled practitioners that ultimately go on to train future generations, often in skill shortage areas.

This Government has provided us with a range of support initiatives, aimed at retaining and employing apprentices. These include the expansion of 'Mana in Mahi', the 'Apprenticeship Boost', increased support for 'Group Training Schemes' and the Regional Apprenticeships Initiative. The Apprenticeship Boost has been particularly helpful in supporting the retention and employment of apprentices in the electrical industry and it was recently extended, as part of Budget 2022, until the end of December 2023.

MBIE has stated in their 'proposed Fair Pay Agreement system' paper that one of the objectives of this Bill is to *"incentivise businesses to invest in training and innovation."*

The Bill would run contrary to the abovementioned support, undermining the benefits of these initiatives. The increased costs caused by apprentices falling under FPAs will nullify any benefit gained and received.

FIXED-PRICED CONTRACTS WILL BE UNPROFITABLE IF COSTS OF EMPLOYING APPRENTICES INCREASE

Master Electricians also asks the Select Committee to recognise the impact that FPAs will have on fixed price contracts in our industry.

Fixed price contracts are common, both in the electrical industry and the wider building industry more generally. Many of our members are parties to fixed price contracts covering a variety of periods, often for as long as five years. In Australia, these contracts have been in place for much longer and employers there have struggled to cope with their commitments to these contracts, when weighed against the increasing costs associated with apprentice employees.

FPAs will add uncertainty and will increase labour costs, making current contracts unprofitable, and possibly loss-making, with no way to retrospectively capture the cost increase. Furthermore, the costing of future projects not captured by current fixed term contracts will increase. Again, this will further disincentive our members from taking on apprentices.

REPRESENTATION: UNWORKABLE IN PRACTICE

The Bill envisages employers will be represented in FPA negotiations and settlements. BusinessNZ has stated it will not represent employers (or an employer organisation) in a collective bargaining situation.

So, who would represent employers? How will it work in practice? More specifically, who would represent employers in our industry? These questions have not been adequately addressed or considered in this Bill and supports our primary recommendation that the Bill should not proceed. Failing that, these considerations must be worked through by Government before the Bill proceeds any further.

Employer representation has not been sufficiently considered and is unworkable

A significant number of employers are not associated with any national organisation, let alone one with the expertise, resources and funding to represent them in collective bargaining. In our industry for example, we only represent approximately 40% of employers. Some of the employer representation issues that are not adequately addressed by the Bill include:

Simply identifying and contacting employers whose employees will be caught by the coverage of a proposed FPA is hugely problematic. Thousands of small businesses may have no input at all into matters that affect the very existence of their businesses.

The costs of organising and conducting bargaining in many cases amounts to thousands of dollars. Small businesses may find even those costs unsustainable let alone the costs of settlements.

The proposed approach is even more problematic when considering the Bill's requirements that settlement be subject to ratification by employers. How would an employer organisation even know in time for a ratification vote how many employers in the country have employees that will be covered by a proposed FPA and how many employees each employer has on the day?

The lack of available guidance (and the complete inexperience of the vast number of employers (and indeed unions) in award-based bargaining systems making it possible that finalising an FPA could take months, if not years.

Master Electricians is not equipped to represent industry employers in FPA negotiations and settlements

In addition to our abovementioned concerns about employer representation more generally, Master Electricians is not equipped to represent industry employers in FPA negotiations and / settlements. Reasons include:

While we represent and advocate on behalf of our members, we do not perform a negotiation function. We do not have the skills and / or expertise to negotiate and settle collective bargaining as envisaged by the Bill. Furthermore, we do not know who would have the type of industry specific negotiation expertise that would be required.

Skills and expertise aside, while we represent approximately 40% of organisations in the electrical industry (and therefore receive subscriptions from those members), the reality of this means that we do not represent 60% of those in our industry. Who would fund the representation of the remaining 60%?

The subscriptions we receive from members are already committed to various services, and the amount of the subscription is always under tight scrutiny by our members, especially at the present time.

It is difficult enough to perform the functions we need to as an organisation within our current revenues. Adding a further negotiation function is simply unworkable.

These representation concerns are significant and, we submit, are reason alone for the Bill not to proceed.

OUR PRIMARY RECOMMENDATION

As noted above, our primary recommendation is that the Bill does not proceed. Our alternative recommendation is that apprentices should not be included in any FPAs.

As an alternative, in the event that Parliament proceeds with the Bill, we submit that the Select Committee needs to make the following amendments.

Clauses 122, 123 and 125 of the Bill require further consideration: Apprentices should not be included in any FPAs

For the reasons set out above, our position is that differentiation of minimum terms for apprentice electricians, (as compared to their certified counterparts) is not sufficient. We submit that:

Apprentices should not be included in FPAs.

Apprentices should not be able to initiate a 'union' to negotiate their own separate FPA.

Clause 122 of the Bill provides that an FPA may include terms that apply to a class of covered employees that are different from the terms that apply to another class of employees who are within the coverage of the same FPA. While there is merit behind providing a framework to recognise the special circumstances of apprentices, we submit that this cannot be sufficiently provided for within the

context of a different class of employees, as envisaged by clause 122 of the Bill. We note that BusinessNZ has also set out its concerns with respect to this section.

For our industry, the differentiation provisions would create and exasperate further issues experienced by our members, including:

42.1 If an industry-wide FPA were to be negotiated, including different minimum terms for apprentices, there is a risk those differing terms may not be able to be agreed on. In the case of two unsuccessful votes on an FPA, determination of a binding agreement would fall to the Employment Relations Authority. In this situation, determination of the terms of an FPA would lie out of the hands of those employers and apprentices who best understand their own circumstances and needs.

42.2 There is a further risk that, if apprentice electricians were to be excluded from an FPA in the electrical industry, a union of apprentices could be formed to negotiate a separate agreement. Such an agreement could impose minimum terms on employers that could make it unfeasible to retain and employ apprentices. The low threshold for a union to initiate FPA negotiations makes this a very real possibility.

In summary, we urge the Select Committee to consider the implications of clauses 122, 123 (FPAs applying to different New Zealand districts) and 125 and the concerns these provisions raise for BusinessNZ and the electrical industry. Master Electricians submits (in the alternative, should the Bill proceed) that these two clauses should be amended to exclude apprenticeships from inclusion in FPAs and the ability to negotiate their own FPAs as separate class of employee.

Bernie McLaughlin
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