

Reprint
as at 1 April 2016



Minimum Wage Act 1983

Public Act 1983 No 115
Date of assent 16 December 1983
Commencement see section 1(2)

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Business, Innovation, and Employment.

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An Act to consolidate and amend the law relating to minimum wages

1 Short Title and commencement

- (1) This Act may be cited as the Minimum Wage Act 1983.
- (2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

Section 1(2): this Act brought into force, on 2 September 1985, by the Minimum Wage Act Commencement Order 1985 (SR 1985/212).

2 Interpretation

In this Act, unless the context otherwise requires,—

employer means a person employing any worker or workers; and includes a person engaging or employing a homemaker

Employment Relations Authority means the Employment Relations Authority established under the Employment Relations Act 2000

homemaker has the meaning given to it by section 5 of the Employment Relations Act 2000

Labour Inspector means a Labour Inspector designated under section 223 of the Employment Relations Act 2000

worker has the same meaning as that given to the term employee by section 6 of the Employment Relations Act 2000.

Section 2: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

2A Provisions affecting application of amendments to this Act

Schedule 1AA contains application, savings, and transitional provisions relating to amendments made to this Act on or after 1 April 2016.

Section 2A: inserted, on 1 April 2016, by section 4 of the Minimum Wage Amendment Act 2016 (2016 No 11).

3 Act to bind the Crown

This Act shall bind the Crown.

Compare: 1945 No 44 s 6

4 Prescribed minimum adult rate of wages

(1) The Governor-General may, by Order in Council, prescribe a minimum adult rate of wages payable to workers—

- (a) who are aged 16 years or older; and
- (b) to whom any other minimum rate of wages prescribed under section 4A or 4B does not apply.

(2) A rate prescribed under subsection (1) must be prescribed as a monetary amount.

Section 4: replaced, on 1 May 2013, by section 4 of the Minimum Wage (Starting-out Wage) Amendment Act 2013 (2013 No 8).

4A Prescribed minimum starting-out rates of wages

(1) The Governor-General may, by Order in Council, prescribe 1 or more minimum starting-out rates of wages payable to 1 or more classes of workers who—

- (a) are aged 16, 17, 18, or 19 years; and
- (b) are not involved in supervising or training other workers; and
- (c) are defined in the order by reference to the age (or range of ages) of the workers and 1 or more of the following factors:
 - (i) the length of time, being a period of not less than 6 months, that the workers have been continuously paid 1 or more specified social security benefits (the **continuous social assistance period**):
 - (ii) the length of time, being a period of not more than 6 months, that the workers have been in continuous employment with—
 - (A) any employer (excluding, if the order defines the class of workers by reference to the factor specified in subparagraph (i), any employment undertaken by the worker before the continuous social assistance period):
 - (B) the worker's current employer:
 - (iii) that the workers are employed under contracts of service that require the workers to undergo training, instruction, or examination (as specified in the order) for the purpose of becoming qualified for the occupation to which their contracts of service relate.

- (2) A rate prescribed under subsection (1) must not be less than 80% of the minimum adult rate prescribed under section 4 and may be prescribed as—
- (a) a monetary amount; or
 - (b) a percentage of the minimum adult rate.
- (3) If a minimum starting-out rate is prescribed under subsection (1) by reference to a factor specified in subsection (1)(c)(i) or (ii) (or both), an employer of a worker to whom that rate applies—
- (a) may pay the worker in accordance with that rate only until the earlier of—
 - (i) the date on which the worker has completed 6 months' continuous employment (or any shorter period of continuous employment specified in the order) with any employer or the worker's current employer (as the case requires);
 - (ii) the day before the date on which the worker ceases to satisfy one or both of the criteria in subsection (1)(a) and (b); and
 - (b) then must pay the worker no less than the minimum adult rate prescribed under section 4.
- (4) To avoid doubt, if more than 1 minimum starting-out rate prescribed under subsection (1) applies to a worker, only the higher or the highest rate applies.
- (5) For the purposes of subsection (1)(c)(i), a worker is to be treated as having been continuously paid a specified social security benefit—
- (a) whether or not the benefit has been reduced due to any sanction imposed under the Social Security Act 1964 or for any other reason;
 - (b) during any period when the benefit was suspended under the Social Security Act 1964 for any reason.
- (6) In this section,—
- continuous employment**, in relation to a worker,—
- (a) means a continuous period of employment starting on the worker's first day of work; and
 - (b) includes any employment undertaken by the worker before—
 - (i) the worker turns 16;
 - (ii) the commencement of the Minimum Wage (Starting-out Wage) Amendment Act 2013

continuously paid 1 or more specified social security benefits, in relation to a worker to whom an Order in Council made under subsection (1)(c)(i) applies, includes any time spent by the worker on 1 or more specified social security benefits before the worker reached the age defined in the order

specified social security benefit means any of the following benefits paid or payable under the Social Security Act 1964:

- (a) domestic purposes benefit:
- (b) emergency benefit:
- (c) independent youth benefit:
- (d) invalid's benefit:
- (da) jobseeker support:
- (e) sickness benefit:
- (ea) sole parent support:
- (eb) supported living payment:
- (f) unemployment benefit:
- (g) widow's benefit:
- (h) young parent payment:
- (i) youth payment.

Section 4A: inserted, on 1 May 2013, by section 4 of the Minimum Wage (Starting-out Wage) Amendment Act 2013 (2013 No 8).

Section 4A(6) **specified social security benefit** paragraph (da): inserted, on 15 July 2013, by section 129 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Section 4A(6) **specified social security benefit** paragraph (ea): inserted, on 15 July 2013, by section 86 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

Section 4A(6) **specified social security benefit** paragraph (eb): inserted, on 15 July 2013, by section 97 of the Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13).

4B Prescribed minimum training rate of wages

- (1) The Governor-General may, by Order in Council, prescribe a minimum training rate payable to 1 or more classes of workers who—
 - (a) are aged 20 years or older; and
 - (b) are not involved in supervising or training other workers; and
 - (c) are employed under contracts of service under which they are required to undergo training, instruction, or examination (as specified in the order) for the purpose of becoming qualified for the occupation to which their contract of service relates.
- (2) A rate prescribed under subsection (1) must not be less than 80% of the minimum adult rate prescribed under section 4 and may be prescribed as—
 - (a) a monetary amount; or
 - (b) a percentage of the minimum adult rate.

Section 4B: inserted, on 1 May 2013, by section 4 of the Minimum Wage (Starting-out Wage) Amendment Act 2013 (2013 No 8).

5 Annual review of minimum wages

- (1) The Minister of Labour shall, in each year ending on 31 December, review any minimum rate prescribed pursuant to section 4, 4A, or 4B.

- (2) Following a review under subsection (1), the Minister may, whether in that year or subsequently, make recommendations to the Governor-General regarding the adjustments that should be made to that minimum rate.

Section 5: substituted, on 1 August 1987, by section 3 of the Minimum Wage Amendment Act 1987 (1987 No 83).

Section 5(1): amended, on 1 May 2013, by section 5 of the Minimum Wage (Starting-out Wage) Amendment Act 2013 (2013 No 8).

6 Payment of minimum wages

Notwithstanding anything to the contrary in any enactment, award, collective agreement, determination, or contract of service, but subject to sections 7 to 9, every worker who belongs to a class of workers in respect of whom a minimum rate of wages has been prescribed under this Act, shall be entitled to receive from his employer payment for his work at not less than that minimum rate.

Compare: 1945 No 44 s 2(1); 1970 No 137 s 6; 1974 No 137 s 2

7 Deductions for board or lodging or time lost

- (1) In any case where a worker is provided with board or lodging by his employer, the deduction in respect thereof by the employer shall not exceed such amount as will reduce the worker's wage calculated at the appropriate minimum rate by more than the cash value thereof as fixed by or under any Act, determination, or agreement relating to the worker's employment, or, if it is not so fixed, the deduction in respect thereof by the employer shall not exceed such amount as will reduce the worker's wages (as so calculated) by more than 15% for board or by more than 5% for lodging.
- (2) No deduction in respect of time lost by any worker shall be made from the wages payable to the worker under this Act except for time lost—
- by reason of the default of the worker; or
 - by reason of the worker's illness or of any accident suffered by the worker.

Compare: 1945 No 44 s 2(4), (5); 1974 No 106 s 3

Section 7(1): amended, on 15 May 1991, by section 3 of the Minimum Wage Amendment Act 1991 (1991 No 27).

8 Minimum wage exemption permit

- (1) A Labour Inspector may issue a minimum wage exemption permit to a worker if the Inspector is satisfied that—
- the worker is significantly and demonstrably limited by a disability in carrying out the requirements of his or her work; and
 - any reasonable accommodations that could have been made to facilitate carrying out the requirements of the work have been considered by the employer and the worker; and
 - it is reasonable and appropriate to grant the permit.

- (2) To avoid doubt, nothing in subsection (1)(b) limits or affects any legal obligations that the employer has towards a worker.
- (3) A permit—
 - (a) comes into force on the date it is issued or any other date as stated in the permit; and
 - (b) remains in force for the period stated in the permit.
- (4) While a permit remains in force, the rate of wages stated in the permit is taken to be the minimum rate of wages prescribed under this Act for the worker.
- (5) A Labour Inspector may revoke a permit at any time if the Inspector considers it is no longer reasonable and appropriate for the permit to remain in force.
- (6) In this section, **disability** has the same meaning as in section 21(1)(h) of the Human Rights Act 1993.

Section 8: substituted, on 28 March 2007, by section 4 of the Minimum Wage Amendment Act 2007 (2007 No 12).

8A Wages and time records

[Repealed]

Section 8A: repealed, on 1 April 2016, by section 5 of the Minimum Wage Amendment Act 2016 (2016 No 11).

8B Offence of failing to keep records

[Repealed]

Section 8B: repealed, on 15 May 1991, by section 6 of the Minimum Wage Amendment Act 1991 (1991 No 27).

8C Right of entry for enforcement purposes

[Repealed]

Section 8C: repealed, on 31 August 1990, by section 3 of the Minimum Wage Amendment Act 1990 (1990 No 113).

8D Provisions as to summary proceedings

[Repealed]

Section 8D: repealed, on 15 May 1991, by section 6 of the Minimum Wage Amendment Act 1991 (1991 No 27).

9 Workers to whom Act does not apply

This Act shall not apply to—

- (a) *[Repealed]*
- (b) apprentices bound by an indenture of apprenticeship entered into under the Maori Housing Amendment Act 1938, the New Zealand Railways Corporation Act 1981, the Defence Act 1971, the Post Office Act 1959, or the State Services Act 1962, or under any other Act:
- (c) *[Repealed]*

- (d) inmates of any charitable institution (not being persons residing on the premises by reason only of their being employed therein) who, as such inmates, do any work in or in connection with the institution:
- (e) employees to whom the Home and Community Support (Payment for Travel Between Clients) Settlement Act 2016 applies, in respect of travel between clients (as defined in section 4 of that Act) undertaken by those employees.

Compare: 1945 No 44 s 3; 1946 No 40 s 55; 1968 No 94 s 2; 1970 No 137 s 6

Section 9(a): repealed, on 23 April 2014, by section 23 of the Industry Training and Apprenticeships Amendment Act 2014 (2014 No 16).

Section 9(c): repealed, on 17 June 2003, by section 4 of the Minimum Wage Amendment Act 2003 (2003 No 24).

Section 9(e): inserted, on 25 February 2016, by section 30 of the Home and Community Support (Payment for Travel Between Clients) Settlement Act 2016 (2016 No 2).

10 Penalties

- (1) The persons specified in subsection (2) are liable to a penalty imposed by the Employment Relations Authority under the Employment Relations Act 2000.
- (2) The persons are—
 - (a) every person who makes default in the full payment of any wages payable by that person under this Act:
 - (b) every person who is involved in that default:
 - (c) every person who fails otherwise to comply with the requirements of this Act.
- (3) A worker or a Labour Inspector may recover a penalty under subsection (1), but the worker may recover a penalty only in relation to his or her employer.
- (4) For the purposes of subsection (2), a person is **involved in a default** if the person would be treated as a person involved in a breach within the meaning of section 142W of the Employment Relations Act 2000.

Section 10: replaced, on 1 April 2016, by section 6 of the Minimum Wage Amendment Act 2016 (2016 No 11).

11 Recovery of wages

- (1) This section applies where, in relation to wages or other money payable by an employer to a worker whose wages are prescribed under this Act,—
 - (a) there has been a default in payment; or
 - (b) payment has been made at a lower rate than that prescribed under this Act or otherwise legally payable to the worker.
- (2) The whole or any part of wages or other money referred to in subsection (1)(a) or (b) may be recovered by the worker or by a Labour Inspector on behalf of the worker by action commenced in the Employment Relations Authority in

the same manner as an action under section 131 of the Employment Relations Act 2000, and subsection (2) of that section applies accordingly.

- (3) Subsection (2) applies despite—
 - (a) acceptance by the worker of payment at the lower rate; or
 - (b) any express or implied agreement to the contrary.
- (4) This section does not affect any other remedies for the recovery of wages or other money payable by an employer to any worker whose wages are prescribed under this Act.

Section 11: replaced, on 1 April 2016, by section 7 of the Minimum Wage Amendment Act 2016 (2016 No 11).

11AA Proceedings by Labour Inspector or worker to recover arrears of wages from person involved in failure to comply

- (1) A Labour Inspector or a worker may recover from a person who is not the worker's employer any unpaid wages that the worker is entitled to if—
 - (a) the worker is entitled to the wages under this Act; and
 - (b) the wages are unpaid due to non-compliance with this Act; and
 - (c) the person from whom the wages are sought to be recovered is a person involved in the non-compliance.
- (2) However, unpaid wages may be recovered under subsection (1) only,—
 - (a) in the case of recovery by a worker, with the prior leave of the Authority or court; and
 - (b) to the extent that the worker's employer is unable to pay the wages.
- (3) For the purposes of subsection (1), a person is **involved in the non-compliance** if the person would be treated as a person involved in a breach within the meaning of section 142W of the Employment Relations Act 2000.

Section 11AA: inserted, on 1 April 2016, by section 8 of the Minimum Wage Amendment Act 2016 (2016 No 11).

11A Compliance order

Sections 137 and 138 of the Employment Relations Act 2000 apply to the non-observance or non-compliance with any provision of, or requirement given under, this Act as if it were a provision of, or requirement given under, Parts 5 to 9 of the Employment Relations Act 2000, and proceedings under that Act may be commenced by the worker or employer affected by the non-observance or non-compliance.

Section 11A: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

11B 40-hour 5-day week

- (1) Subject to subsections (2) and (3), every employment agreement under the Employment Relations Act 2000 must fix at not more than 40 the maximum num-

ber of hours (exclusive of overtime) to be worked in any week by any worker bound by that employment agreement.

- (2) The maximum number of hours (exclusive of overtime) fixed by an employment agreement to be worked by any worker in any week may be fixed at a number greater than 40 if the parties to the agreement agree.
- (3) Where the maximum number of hours (exclusive of overtime) fixed by an employment agreement to be worked by any worker in any week is not more than 40, the parties to the agreement must endeavour to fix the daily working hours so that those hours are worked on not more than 5 days of the week.

Section 11B: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

12 Regulations

The Governor-General may from time to time, by Order in Council, make all such regulations as may, in his opinion, be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

Compare: 1945 No 44 s 5

13 Saving

Nothing in this Act reduces or authorises any employer to reduce the wages being paid to any worker at the date of the commencement of this Act.

14 Repeals

The enactments specified in Schedule 1 are hereby repealed.

Schedule 1AA

Application, savings, and transitional provisions relating to amendments made to this Act on or after 1 April 2016

s 2A

Schedule 1AA: inserted, on 1 April 2016, by section 9 of the Minimum Wage Amendment Act 2016 (2016 No 11).

1 Interpretation

In this schedule, 2016 Act means the Minimum Wage Amendment Act 2016.

2 Application, savings, and transitional provisions arising from 2016 Act

The amendments made by the 2016 Act do not apply to conduct that occurred before the commencement of that Act.

Schedule 1
Enactments repealed

s 14

Age of Majority Act 1970 (1970 No 137)

Amendment(s) incorporated in the Act(s).

Minimum Wage Act 1945 (1945 No 44) (RS Vol 3, p 633)

Minimum Wage Amendment Act 1952 (1952 No 18) (RS Vol 3, p 636)

Minimum Wage Amendment Act 1968 (1968 No 94) (RS Vol 3, p 637)

Minimum Wage Amendment Act 1974 (1974 No 106) (RS Vol 3, p 637)

Statutes Amendment Act 1946 (1946 No 40) (RS Vol 3, p 636)

Amendment(s) incorporated in the Act(s).

Minimum Wage Amendment Act 2007

Public Act	2007 No 12
Date of assent	27 March 2007
Commencement	see section 2

1 Title

This Act is the Minimum Wage Amendment Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

6 Transitional provision for under-rate workers' permits

An under-rate worker's permit granted under the principal Act and in force immediately before the commencement of this Act continues in force and is to be treated as if it had been issued under section 8 of the principal Act as inserted by this Act.

Minimum Wage (Starting-out Wage) Amendment Act 2013

Public Act	2013 No 8
Date of assent	25 March 2013
Commencement	see section 2

1 Title

This Act is the Minimum Wage (Starting-out Wage) Amendment Act 2013.

2 Commencement

This Act comes into force on 1 May 2013.

3 Principal Act

This Act amends the Minimum Wage Act 1983 (the **principal Act**).

Part 2

Miscellaneous provisions

7 Transitional and savings provision relating to minimum new entrant rate

- (1) This section applies to a worker who, immediately before the commencement of this Act, was entitled to be paid wages by his or her employer in accordance with the minimum new entrant rate prescribed in clause 5 of the Minimum Wage Order 2013.
- (2) On and after the commencement of this Act,—
 - (a) the worker is entitled to be paid the higher of—
 - (i) the minimum new entrant rate as if this Act had not been passed;
 - (ii) the highest minimum starting-out rate prescribed under section 4A of the principal Act (as inserted by this Act) for workers aged 16 or 17 years; and
 - (b) after completing 3 months or 200 hours of employment (whichever is completed first), the worker is entitled to be paid at the minimum adult rate prescribed under section 4 of the principal Act (as replaced by this Act).
- (3) In subsection (2), **employment** includes employment undertaken by the worker—
 - (a) before or after the commencement of this Act;
 - (b) with more than 1 employer.

Reprints notes

1 *General*

This is a reprint of the Minimum Wage Act 1983 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Minimum Wage Amendment Act 2016 (2016 No 11)

Home and Community Support (Payment for Travel Between Clients) Settlement Act 2016 (2016 No 2): section 30

Industry Training and Apprenticeships Amendment Act 2014 (2014 No 16): section 23

Social Security (Benefit Categories and Work Focus) Amendment Act 2013 (2013 No 13): sections 86, 97, 129

Minimum Wage (Starting-out Wage) Amendment Act 2013 (2013 No 8)

Minimum Wage (New Entrants) Amendment Act 2007 (2007 No 37)

Minimum Wage Amendment Act 2007 (2007 No 12)

Minimum Wage Amendment Act 2003 (2003 No 24)

Employment Relations Act 2000 (2000 No 24): section 240

Minimum Wage Amendment Act 1991 (1991 No 27)

Minimum Wage Amendment Act 1990 (1990 No 113)

Minimum Wage Amendment Act 1987 (1987 No 83)

Minimum Wage Act Commencement Order 1985 (SR 1985/212)