

**Reprint
as at 1 April 2008**



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 section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Department of Labour.

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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).

3 Act to bind the Crown

This Act shall bind the Crown.

Compare: 1945 No 44 s 6

4 Prescription of minimum wages

- (1) The Governor-General may, by Order in Council, prescribe the minimum rate of wages payable to—
 - (a) workers—
 - (i) who are 16 years of age or older; and
 - (ii) to whom neither paragraph (b) nor (c) applies:
 - (b) workers who are new entrants, being workers who are 16 or 17 years of age except workers—
 - (i) who have completed 3 months or 200 hours of employment, whichever is the shorter; or
 - (ii) who are supervising or training other workers; or
 - (iii) to whom paragraph (c) applies:
 - (c) 1 or more classes of workers—
 - (i) defined in the order; and
 - (ii) who are employed under contracts of service under which they are required to undergo training, instruction, or examination for the purpose of becoming qualified for the occupation to which their contract of service relates.
- (2) A minimum rate of wages prescribed under subsection (1) may be prescribed as—
 - (a) a monetary amount; or
 - (b) a percentage of any other minimum rate prescribed under subsection (1).
- (3) However, a minimum rate prescribed for the purposes of subsection (1)(b) must not be less than 80% of any rate prescribed for the purposes of subsection (1)(a).
- (4) In subsection (1)(b)(i), **employment**—
 - (a) includes employment undertaken with more than 1 employer; and
 - (b) includes any employment undertaken before the commencement of the Minimum Wage (New Entrants) Amendment Act 2007; but
 - (c) does not include any employment undertaken before a new entrant turns 16 years of age.

Compare: 1945 No 44 s 2(2); 1952 No 18 s 2(1)

Section 4(1): substituted, on 1 April 2008, by section 5 of the Minimum Wage (New Entrants) Amendment Act 2007 (2007 No 37).

Section 4(2): substituted, on 1 April 2008, by section 5 of the Minimum Wage (New Entrants) Amendment Act 2007 (2007 No 37).

Section 4(3): added, on 1 April 2008, by section 5 of the Minimum Wage (New Entrants) Amendment Act 2007 (2007 No 37).

Section 4(4): added, on 1 April 2008, by section 5 of the Minimum Wage (New Entrants) Amendment Act 2007 (2007 No 37).

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.
- (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).

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—
- (a) by reason of the default of the worker; or
 - (b) 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—
- (a) the worker is significantly and demonstrably limited by a disability in carrying out the requirements of his or her work; and
 - (b) 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
 - (c) 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

- (1) Every employer who employs any worker whose wages or rates of wages are prescribed or paid pursuant to this Act shall keep a record (called the wages and time record) showing, in the case of each such worker,—
 - (a) the name of the worker:
 - (b) the worker's age, if under 20 years of age:
 - (c) the worker's postal address:
 - (d) the kind of work on which the worker is usually employed:
 - (e) the contract of service under which the worker is employed:
 - (f) the classification or designation of the worker according to which the worker is paid:
 - (g) the hours between which the worker is employed on each day, and the days of the worker's employment during each week:
 - (h) the wages paid to the worker each week and the method of calculation:
 - (i) such other particulars as are prescribed.
- (2) Every employer shall, upon request made at any reasonable time by a Labour Inspector, produce forthwith for inspection by that Labour Inspector every wages and time record that is, or at any time during the preceding 6 years was, in use under this Act in respect of any worker employed by that employer at any time in those 6 years.
- (3) Where an employer keeps a wages and time record in accordance with the Employment Relations Act 2000, the employer is not required to keep a wages and time record under this Act in respect of the same matters.

Section 8A: inserted, on 1 August 1987, by section 5 of the Minimum Wage Amendment Act 1987 (1987 No 83).

Section 8A(1)(e): substituted, on 15 May 1991, by section 5(1) of the Minimum Wage Amendment Act 1991 (1991 No 27).

Section 8A(1)(f): substituted, on 15 May 1991, by section 5(1) of the Minimum Wage Amendment Act 1991 (1991 No 27).

Section 8A(2): amended, on 15 May 1991, by section 5(2)(a) of the Minimum Wage Amendment Act 1991 (1991 No 27).

Section 8A(2): amended, on 15 May 1991, by section 5(2)(b) of the Minimum Wage Amendment Act 1991 (1991 No 27).

Section 8A(3): substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

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) apprentices under apprenticeship contracts (within the meaning of section 2 of the Industry Training Act 1992):
- (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.

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

Section 9(a): substituted, on 1 July 1992, by section 19 of the Industry Training Act 1992 (1992 No 55).

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

10 Penalties and jurisdiction

Every person who makes default in the full payment of any wages payable by that person under this Act and every person who fails to otherwise comply with the requirements of this Act is liable to a penalty recoverable by a Labour Inspector, and imposed by the Employment Relations Authority, under the Employment Relations Act 2000.

Section 10: substituted, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

11 Recovery of wages

Without affecting 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, where there has been any default in payment of any such wages or other money or where any payment of any such wages or other money has been made at a rate lower than that prescribed under this Act or otherwise legally payable to the worker, the whole or any part, as the case may require, of any such wages or other money may be recovered by the worker or by a Labour Inspector to the use 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, notwithstanding the acceptance by the worker of any payment at a lower rate or any express or implied agreement to the contrary, and subsection (2) of that section shall apply accordingly.

Section 11: substituted, on 15 May 1991, by section 8(1) of the Minimum Wage Amendment Act 1991 (1991 No 27).

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

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 number 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 the Schedule are hereby repealed.

Schedule

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Enactments repealed**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.

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Notes**1 *General***

This is a reprint of the Minimum Wage Act 1983. The reprint incorporates all the amendments to the Act as at 1 April 2008, as specified in the list of amendments at the end of these notes. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

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

Industry Training Act 1992 (1992 No 55): section 19

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)
