



## COVERSHEET

<b>Minister</b>	Hon Michael Wood	<b>Portfolio</b>	Workplace Relations and Safety
<b>Title of Cabinet paper</b>	Order to increase the Minimum Wage to \$20.00 from 1 April 2021	<b>Date to be published</b>	1 April 2021

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
15 February 2021	Cabinet paper: Order to increase the Minimum Wage to \$20.00 from 1 April 2021	<i>Office of the Minister for Workplace Relations and Safety</i>
18 February 2021	LEG-21-MIN-0007 Minute	<i>Cabinet Legislation Committee</i>

### Information redacted

**YES / NO**

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In Confidence

Minister for Workplace Relations and Safety

Cabinet Legislation Committee

## **Order to increase the Minimum Wage to \$20.00 from 1 April 2021**

### **Proposal**

- 1 I propose that the Cabinet Legislation Committee authorise the submission of the *Minimum Wage Order 2021* to the Executive Council.

### **Background**

- 2 The minimum wage is currently \$18.90 per hour for adults and \$15.12 per hour for starting-out workers and trainees. The adult minimum wage is paid to approximately 57,700 workers.
- 3 The *Minimum Wage Act 1983* (the Act) provides that the Governor-General may, by Order in Council, prescribe the minimum wage rates for:
  - 3.1 adult workers aged 16 years and over for the purposes of section 4 of the Act
  - 3.2 starting-out workers for the purposes of section 4A of the Act
  - 3.3 trainees for the purposes of section 4B of the Act.

### **The *Minimum Wage Order 2021* gives effect to Cabinet's decisions**

- 4 The *Minimum Wage Order 2021* (the Order) gives effect to Cabinet's decisions to increase the adult minimum wage, and the starting-out and training minimum wage rates, from 1 April 2021 [CBC-20-MIN-0115]. There are no changes to Cabinet's decisions.
- 5 The *Minimum Wage Order 2021* increases the minimum wage as outlined below:
  - 5.1 For adult workers aged 16 years or over, the rate will increase from \$18.90 per hour to \$20 per hour. For the purposes of the Order, this rate is also expressed as \$160 per day plus \$20 per hour for each hour exceeding 8 hours worked in a day, or \$800 per week plus \$20 per hour for each hour exceeding 40 hours worked in a week, or \$1,600 per fortnight plus \$20 per hour for each hour exceeding 80 hours worked in a fortnight.
  - 5.2 For starting-out workers, the rate will increase from \$15.12 per hour to \$16 per hour. For the purposes of the Order, this rate is also expressed as \$128 per day plus \$16 per hour for each hour exceeding 8 hours worked in a day, or \$640 per week plus \$16 per hour for each hour exceeding 40 hours worked in a week, or \$1,280 per fortnight plus \$16 per hour for each hour exceeding 80 hours worked in a fortnight.

5.3 For trainee workers, the rate will increase from \$15.12 per hour to \$16 per hour. For the purposes of the Order, this rate is also expressed as \$128 per day plus \$16 per hour for each hour exceeding 8 hours worked in a day, or \$640 per week plus \$16 per hour for each hour exceeding 40 hours worked in a week, or \$1,280 per fortnight plus \$16 per hour for each hour exceeding 80 hours worked in a fortnight.

6 The *Minimum Wage Order 2021* revokes the Minimum Wage Order 2020.

### Timing and 28-day rule

7 The *Minimum Wage Order 2021* will come into effect on 1 April 2021.

8 In order to comply with the 28-day rule, the *Minimum Wage Order 2021* should be notified in the New Zealand Gazette no later than 3 March 2021.

### Compliance

9 The regulations comply with:

9.1 the principles of the Treaty of Waitangi

9.2 the rights and freedoms contained in the *New Zealand Bill of Rights Act 1990* and the *Human Rights Act 1993*

9.3 the principles and guidelines set out in the *Privacy Act 1993*

9.4 relevant international standards and obligations

9.5 the Legislation Design and Advisory Committee's *Legislation Guidelines* (2018 edition).

10 The *Minimum Wage Order 2021* does raise an issue of discrimination under section 19(1) of the *New Zealand Bill of Rights Act 1990* (BORA). The starting-out and training minimum wage rates continue to make a distinction on the basis of age, namely those aged 16 to 19 years, or employment status.

11 However, this discrimination appears to be justified in terms of section 5 of the BORA. There can be negative long-term economic and social effects associated with young people being out of work, especially if they remain unemployed for a significant period of time. Providing the ability to pay young, unskilled, and in-training workers a lower wage than the adult minimum wage is one way to get young people into work and work-based training. This encourages employers to take a chance on a young person, and provide opportunities for 16 to 19 year olds to engage in training in their chosen occupation. Young people can earn money, gain skills and get work experience. It mitigates some effects of long-term unemployment by assisting young people into work before they move into a cycle of welfare dependency.

12 The policy is a proportionate response because the starting-out and training minimum wages are set at 80% of the adult minimum wage. This is the minimum level allowable under sections 4A(1) and 4A(2) of the Act, and achieves the objective of getting young or unskilled people into work without paying them at a rate so low that it reduces the incentives to enter into training or employment. The policy is also limited in that the rates are time-bound because the Act requires the Minister to review them annually.

## Regulations Review Committee

- 13 There do not appear to be any grounds for the Regulations Review Committee to draw these regulations to the attention of the House under Standing Order 327.

## Certification by Parliamentary Counsel

- 14 The *Minimum Wage Order 2021* has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

## Impact analysis

- 15 For the paper considered by the CBC on 9 December 2020, the Regulatory Quality Team at the Treasury determined that a separate Regulatory Impact Statement (RIS) was not required for the regulatory proposals because it would substantively duplicate the Minimum Wage Review 2020 report.
- 16 The Regulatory Impact Assurance Panel at the Ministry of Business, Innovation and Employment reviewed the report and confirmed that it substituted for a RIS and that the information and analysis summarised in the report meets the Quality Assurance criteria [CBC-20-MIN-0115].

## Publicity

- 17 An announcement of the new minimum wage rates was made on 17 December 2020.
- 18 The previous CBC paper and other relevant documents have been uploaded to the Ministry of Business, Innovation and Employment's website and are available to the public.
- 19 I intend to proactively release this Cabinet paper.

## Consultation

- 20 The following agencies were consulted on this paper: the Treasury, Public Service Commission, Accident Compensation Corporation, Department of Prime Minister and Cabinet (Child Poverty Unit and Policy Advisory Group), the Reserve Bank of New Zealand, Te Puni Kōkiri, Inland Revenue, Oranga Tamariki, the Ministries of Health, Education, Social Development and Justice, and the Ministries for Pacific People and Women.

## Recommendations

I recommend that the Cabinet Legislation Committee (LEG):

- 1 **note** that, on 9 December 2020, the CBC agreed to increase the adult minimum wage rate from \$18.90 per hour to \$20.00 per hour, and to increase the starting-out and training minimum wage rates from \$15.12 per hour to \$16.00 per hour [CBC-20-MIN-0115]
- 2 **note** that the *Minimum Wage Order 2021* will give effect to the decision referred to in recommendation 1 above
- 3 **authorise** the submission to the Executive Council of the *Minimum Wage Order 2021*

4 **note** that the *Minimum Wage Order 2021* will come into force on 1 April 2021.

Authorised for lodgement

Hon Michael Wood

Minister for Workplace Relations and Safety