



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Workplace Relations and Safety
Title of briefing	Order to increase the Minimum Wage to \$22.70 and Starting-Out and Training rates to \$18.16 from 1 April 2023	Date to be published	3 April 2023

List of documents that have been proactively released

Date	Title	Author
February 2023	Order to increase the Minimum Wage to \$22.70 and Starting-Out and Training rates to \$18.16 from 1 April 2023	Office of the Minister of Workplace Relations and Safety
16 February 2023	Minimum Wage Order 2023 LEG-21-MIN-001 Minute	Cabinet Office

Information redacted

NO

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In Confidence

Minister for Workplace Relations and Safety

Cabinet Legislation Committee

Order to increase the Minimum Wage to \$22.70 and Starting-Out and Training rates to \$18.16 from 1 April 2023

Proposal

- 1 I propose that the Cabinet Legislation Committee authorise the submission of the *Minimum Wage Order 2023* to the Executive Council.

Background

- 2 The minimum wage is currently \$21.20 per hour for adults and \$16.96 per hour for starting-out workers and trainees. The Ministry of Business, Innovation and Employment (MBIE) estimates that the adult minimum wage was being paid to approximately 59,500 workers at the end of June 2022.
- 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 2023* gives effect to Cabinet's decisions

- 4 The *Minimum Wage Order 2023* gives effect to Cabinet's decisions to increase the adult minimum wage, and the starting-out and training minimum wage rates, from 1 April 2023 [CAB-23-MIN-0007]. There are no changes to Cabinet's decisions.
- 5 The *Minimum Wage Order 2023* increases the minimum wage as outlined below:
 - 5.1 For adult workers aged 16 years and over, the rate will increase from \$21.20 per hour to \$22.70 per hour. For the purposes of the *Minimum Wage Order 2023*, this rate is also expressed as \$181.60 per day plus \$22.70 per hour for each hour exceeding 8 hours worked in a day, or \$908.00 per week plus \$22.70 per hour for each hour exceeding 40 hours worked in a week, or \$1,816.00 per fortnight plus \$22.70 per hour for each hour exceeding 80 hours worked in a fortnight.
 - 5.2 For starting-out workers, the rate will increase from \$16.96 per hour to \$18.16 per hour. For the purposes of the *Minimum Wage Order 2023*, this rate is also expressed as \$145.28 per day plus \$18.16 per hour for each hour exceeding 8 hours worked in a day, or \$726.40 per week plus \$18.16 per hour for each

hour exceeding 40 hours worked in a week, or \$1,452.80 per fortnight plus \$18.16 per hour for each hour exceeding 80 hours worked in a fortnight.

5.3 For trainee workers, the rate will increase from \$16.96 per hour to \$18.16 per hour. For the purposes of the *Minimum Wage Order 2023*, this rate is also expressed as \$145.28 per day plus \$18.16 per hour for each hour exceeding 8 hours worked in a day, or \$726.40 per week plus \$18.16 per hour for each hour exceeding 40 hours worked in a week, or \$1,452.80 per fortnight plus \$18.16 per hour for each hour exceeding 80 hours worked in a fortnight.

6 The *Minimum Wage Order 2023* revokes and replaces the *Minimum Wage Order 2022*.

7 The *Minimum Wage Order 2023* contains updated references to trainees and work-based training that are more closely aligned with the Education and Training Act 2020, reflecting changes to the vocational education system. This minor change removes reference to a technical term that is now obsolete, and preserves the effect of starting-out and training wage rate eligibility for workers engaged by training agreements.

Timing and 28-day rule

8 The *Minimum Wage Order 2023* will come into effect on 1 April 2023.

9 In order to comply with the 28-day rule, the *Minimum Wage Order 2023* should be notified in the New Zealand Gazette no later than 3 March 2023.

Compliance

10 The regulations comply with:

10.1 the principles of the Treaty of Waitangi

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

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

10.4 relevant international standards and obligations

10.5 the Legislation Design and Advisory Committee's *Legislation Guidelines* (2021 edition).

11 The *Minimum Wage Order 2023* 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.

12 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; this mitigates some effects of long-term unemployment by assisting young people into work before they move into a cycle of welfare dependency.

- 13 The policy is a proportionate response because the starting-out and training minimum wages are set at 80 percent 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 for Workplace Relations and Safety to review them annually.

Regulations Review Committee

- 14 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

- 15 The *Minimum Wage Order 2023* has been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact analysis

- 16 For the paper considered by the Cabinet Priorities Committee on 6 December 2022, 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 2022* report.
- 17 The Regulatory Impact Assurance Panel at MBIE 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.

Publicity

- 18 I announced the new minimum wage rates for 2023 on 8 February.
- 19 MBIE's *Minimum Wage Review 2022* will be published by the end of February 2023, to coincide with Government announcements on the minimum wage rates for 2023. I intend to proactively release Cabinet papers within 30 days of the relevant decisions.

Consultation

- 20 MBIE consulted with BusinessNZ and the New Zealand Council of Trade Unions on the minimum wage options considered in this year's review and the analytical model used to assess them, as has been the case in recent reviews of the minimum wage. MBIE also consulted with a range of employer representatives, unions and worker representatives, and non-governmental organisations.

- 21 The consultation focussed on gathering information to better understand the potential implications of increasing the minimum wage in the current economic environment and labour market. Feedback from social partners and other stakeholders is summarised in the Review report.
- 22 MBIE also consulted with government agencies during the review on the potential implications and costs to Government of the minimum wage options. The Accident Compensation Corporation, New Zealand Police, Ministry of Health, Ministry of Social Development, Ministry of Education, New Zealand Defence Force and Inland Revenue identified potential cost implications.
- 23 The Treasury and Department of Prime Minister and Cabinet (Child Poverty Unit and Policy Advisory Group) were consulted on MBIE's draft Review report.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that, on 1 February 2023, Cabinet agreed to increase the adult minimum wage rate from \$21.20 per hour to \$22.70 per hour, and to increase the starting-out and training minimum wage rates from \$16.96 per hour to \$18.16 per hour [CAB-23-MIN-0007]
- 2 **note** that the *Minimum Wage Order 2023* 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 2023*
- 4 **note** that the *Minimum Wage Order 2023* will come into force on 1 April 2023.

Authorised for lodgement

Hon Michael Wood

Minister for Workplace Relations and Safety