

# **Minimum Wage Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill implements Government policy to repeal the existing training exemption in the Minimum Wage Act 1983 (“the principal Act”) and replace it with a training minimum wage.

Section 9 of the principal Act authorises regulations to be made prescribing a class of trainees, who will then be exempt from the application of the principal Act. Currently, trainees who are required in their employment to undertake at least 60 credits of training per year towards a qualification registered on the National Qualification Framework are exempt from the principal Act. This means that the wages of eligible trainees may be set at any level. The current exemption system does not provide adequate protection against inequality or exploitation of vulnerable employees.

The principal Act does not currently allow for a minimum wage based on training status. This Bill repeals the existing training exemption in section 9 and amends the principal Act to allow the Governor-General, by Order in Council, to prescribe a minimum wage for certain classes of persons (defined by the order) that are required in their employment agreements to undergo training.

Enabling the rate of the training minimum wage to be set by Order in Council is in keeping with the practice for setting the minimum wage and youth minimum wage. It also allows the rate of the training minimum wage to be reviewed and adjusted annually, as the minimum wage and the youth minimum wage are.

Enabling eligibility for the training minimum wage to be set by Order in Council also provides the flexibility to alter the eligibility criteria in the future, if information suggests that current eligibility is

out of alignment with what can be considered to be a significant amount of training.

The overall objectives of the training minimum wage are to ensure payment of a socially acceptable minimum wage and to encourage training by enabling a trade-off of current costs against future benefits by both employers and employees.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause.

*Clause 3* replaces section 4(1) of the principal Act, which provides that the Governor-General may, by Order in Council, prescribe the minimum rates of wages payable to any class or classes of workers by reference to the age of the workers. *New section 4(1)(b)* expands the category of workers to whom the principal Act applies. It provides that a minimum wage is also payable to persons of a class prescribed by Order in Council 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.

*Clause 4* repeals section 9(c) of the principal Act, which exempts workers of 1 or more classes prescribed by Order in Council who are required to undergo any training, instruction, or examination, for the purpose of becoming qualified for the occupation to which their contract of service relates, from the provisions of the principal Act.

### **Regulatory impact and compliance cost statement**

#### *Statement of public policy objective*

The introduction of a training minimum wage will improve protection of vulnerable employees while not significantly impacting adversely on their employment or opportunities for employment.

#### *Statement of problem and need for action*

There is concern that the current training exemption system does not provide adequate protection against inequality or exploitation of vulnerable employees. Currently, trainees undertaking at least 60 credits of training per year towards a qualification registered on the

National Qualifications Framework may be exempted from the principal Act. This exemption system does not contain a floor, therefore the wages of eligible trainees may be set at any level.

### *Proposal for achieving desired objective*

To address the concern that the current training exemption system does not provide adequate protection against inequality or exploitation of vulnerable employees, it is proposed that the training exemption will be removed and replaced with a training minimum wage for all trainees who meet the current exemption requirements, set at the minimum wage rate that applies to 16 and 17 year olds.

### *Statement of net benefit of this proposal*

#### **Benefits**

A training minimum wage is aimed at striking a balance between ensuring payment of a socially acceptable minimum wage and still encouraging training by enabling a trade-off of current costs against future benefits by both employers and employees.

#### **Costs**

The cost of implementing the proposed amendment to the principal Act, new regulations, and enforcing the training minimum wage using the same complaints-based approach as other minimum employment standards could be absorbed within the existing Vote Labour baseline.

The proposed change may have a small adverse impact on the Government's fiscal position. The fiscal impact would come from increased benefit payments that may occur as a result of potential job losses over time. It is, therefore, unclear what the overall fiscal impact would be.

### *Business compliance cost statement*

#### **Source of compliance costs and parties likely to be affected**

Employers making use of the existing training exemption or who wish to make use of the training minimum wage will need to be informed about the requirements of the training minimum wage and may need to alter wage and salary payment systems to take account of the change.

### **Quantitative and qualitative estimates of compliance costs**

There will be only a minimal increase in ongoing compliance costs due to the introduction of a training minimum wage. It is not possible to provide a quantitative estimate of how much these compliance costs will be.

There may be a decline in the amount of training provided by employers; however, it is likely to be small in terms of the overall level of employment-based training. Due to the lack of concrete information available on the existing exemption regime, it is not possible to estimate exactly what the effect on the provision of training will be.

### **Longer term implications of compliance costs for business**

There will be one-off transitional costs for employers of becoming familiar with the requirements of the training minimum wage and updating wage and salary payment systems where necessary.

There may be further compliance costs for employers in the future if the rate of the training minimum wage or the eligibility criteria is reviewed or altered. These costs would be addressed during the course of any future review or policy change.

If employers consider that compliance costs are too high, there may be a decline in the amount of training provided by employers.

### **Assessment of risks associated with any estimate and level of confidence that may be placed on compliance cost assessment**

There is very limited information available about the use of the current training exemption from the minimum wage that will be replaced by the training minimum wage. Therefore, there is a risk that the assessment of compliance costs associated with the proposal is inaccurate. The information that is available is survey-based and suggests that, with the exception of a few industries, relatively few employers currently make use of the training exemption for the minimum wage to pay below the minimum wage.

### **Key issues relating to compliance costs identified in consultation**

No further issues relating to compliance costs have been identified during consultation with departments.

**Overlapping compliance requirements with other agencies' requirements**

No overlapping compliance requirements with other agencies have been identified.

**Steps taken to ensure compliance costs are minimised**

A full information campaign will be carried out during the time between the passing of the Bill and the date on which the Order in Council takes effect. Among other actions, this will include distributing information to industry training organisations with a request to provide it to employees and employers that register industry training agreements and to provide information on the Employment Relations Service website and Employment Relations Infoline. Industries where it is considered that the impact of the introduction of a training minimum wage will be high will be specifically targeted.

It will be important to ensure that information about the criteria for paying the training minimum wage is clear and easy to understand.

*Consultation***Government agencies:**

Ministry of Economic Development (including Regulatory and Compliance Cost Unit)

Ministry of Education

Ministry of Pacific Island Affairs

Ministry of Women's Affairs

Ministry of Youth Affairs

Skill New Zealand

Te Puni Kokiri

Treasury.

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*Hon Margaret Wilson*

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**The Parliament of New Zealand enacts as follows:**

### **1 Title**

- (1) This Act is the Minimum Wage Amendment Act **2001**.
- (2) In this Act, the Minimum Wage Act 1983<sup>1</sup> is called “the principal Act”.
- <sup>1</sup> 1983 No 115

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### **2 Commencement**

This Act comes into force on **30 November 2001**.

### **3 Prescription of minimum wages**

Section 4 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

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- “(1) The Governor-General may, by Order in Council, prescribe the minimum rates of wages payable to either or both of the following:

“(a) 1 or more classes of workers—

“(i) defined in the order by reference to the age of the workers; and

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“(ii) to whom paragraph (b) does not apply:

“(b) 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

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becoming qualified for the occupation to which their contract of service relates.”

**4 Workers to whom Act does not apply**

Section 9 of the principal Act is amended by repealing paragraph (c).

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