

No 189

House of Representatives

**Supplementary
Order Paper**

Tuesday, 19 March 2013

**Minimum Wage (Starting-out Wage)
Amendment Bill**

*Proposed amendments for the consideration
of the Committee of the whole House*

Proposed amendments to the
Minimum Wage (Starting-out Wage)
Amendment Bill

Key:

- **this is inserted text**
- **~~this is deleted text~~**

Note: This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
 - **NOT have the status of an as-reported version of the Bill.**
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Explanatory note

This Supplementary Order Paper (**SOP**) amends the Minimum Wage (Starting-out Wage) Amendment Bill (the **Bill**).

Amendments to clause 4: new section 4A

The SOP proposes several technical amendments to *clause 4: new section 4A*, which authorises the Governor-General, by Order in Council, to prescribe 1 or more minimum starting-out rates of wages (**starting-out wages**) by reference to the criteria and factors specified in *new section 4A(1)*.

The amendment to *new section 4A(1)(c)(ii)*, which enables the length of time, being a period of not more than 6 months, that a worker has been in continuous employment to be used as a factor in prescribing starting-out wages, clarifies the policy intent that relevant continuous employment may be employment with any employer or the worker's current employer.

The amendment to *new section 4A(3)(a)(i)*, which deals with the maximum time frame for which starting-out wages can be paid, clarifies the policy intent that if an Order in Council is made prescribing a starting-out rate by reference to a period of continuous employment that is shorter than 6 months, the employer cannot pay a worker at the starting-out rate after that period has ended.

The SOP also makes other minor and technical amendments to *new section 4A(1)(c)*, *(3)(ii)*, and *(6)*.

Amendments to clause 7

The amendment to *clause 7(1)*, which is a transitional and savings provision relating to the minimum new entrant rate, updates the provision to refer to the Minimum Wage Order 2013 because that order will revoke and replace the Minimum Wage Order 2012 on 1 April 2013.

The amendment to *clause 7(2)* is a drafting amendment.

Hon Simon Bridges, in Committee, to propose the amendments shown in the following document.

Hon Simon Bridges

Minimum Wage (Starting-out Wage) Amendment Bill

Government Bill

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cl 1

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Minimum Wage (Starting-out Wage) Amendment Act **2012**.
- 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 1
Amendments to principal Act

- 4 Section 4 replaced (Prescription of minimum wages)**
Replace section 4 with:
 - “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.
 - “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 1 employer:~~

“(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 months² continuous employment with that employer:~~

“(i) the date on which the worker has completed 6 months’ continuous employment (or any shorter period of continuous employment specified in the

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Part 1 cl 4

- 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 1 or ~~more~~ both of the criteria in **subsection (1)(a) or (b) 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 **2012**
- “**continuously paid 1 or more specified social security benefits**, in relation to a worker to whom an Order in Council made under **section 4A 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:

- “(e) sickness benefit:
- “(f) unemployment benefit:
- “(g) widow’s benefit:
- “(h) young parent payment:
- “(i) youth payment.

“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.”

- 5 Section 5 amended (Annual review of minimum wages)**
In section 5(1), replace “section 4” with “**section 4, 4A, or 4B**”.

Part 2
Miscellaneous provisions

- 6 Consequential amendments to Accident Compensation Act 2001**
- (1) This section amends the Accident Compensation Act 2001.
 - (2) In Schedule 1, Part 2, replace clause 42(3)(a)(i) with:
 - “(i) the minimum weekly adult rate prescribed under **section 4** of the Minimum Wage Act 1983; or”.
 - (3) In Schedule 1, Part 2, replace clause 42(3)(b)(i) with:

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Part 2 cl 7

- “(i) the minimum weekly adult rate prescribed under **section 4** of the Minimum Wage Act 1983; or”.

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 ~~2012~~ 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.
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