



Disclaimer. This guide provides an overview of pay and minimum wage information as at September 2017. The Ministry of Business Innovation and Employment are not responsible for the results of any action taken on the basis of information in this document, or for any errors or omissions. This guide should not be used as a substitute for legislation or for legal or other expert advice.

### Summary of recent changes made

Date of change: November 2017

- Removal of detailed content about annual holidays, public holidays, sick leave, bereavement leave and alternative holidays, and record keeping. This information can be found on our website pages at [www.employment.govt.nz](http://www.employment.govt.nz), and in the Leave and Holidays Guide and the Holidays Act 2003 Guidance on annual holidays, bereavement leave, alternative holidays, public holidays and sick leave documents also located on our website.
- Plain English review to make it easier for everyone to understand

# Pay and the Minimum Wage

Employees are covered by an employment agreement and work for financial reward such as wages, salary, commission, or piece rates.

Employers must pay employees correctly for their work. This includes meeting minimum wage requirements for all employees over 16 years of age, including:

- adults
- trainees
- starting-out workers
- people with disabilities.

Paying employees correctly also means:

- an employer cannot discriminate due to an employee's colour, race, ethnic or national origins, sex (including pregnancy or childbirth status), marital or family status, age, disability, religious or ethical belief, political opinion, sexual orientation or union activity
- women and men must receive the same pay rates for doing the same or substantially similar work or different work of equal value (for work mainly done by female employees).

## Minimum wage

### Who gets the minimum wage

Minimum wage rates must be paid to all employees; full-time, part-time, permanent, fixed term, on 'casual' employment agreements, home workers, or paid wholly or partly by commission or piece rates except for:

- employees under 16 years of age, and
- a small number of people who hold an exemption from the minimum wage, see 'Minimum wage exemption',

but all other employment rights and entitlements still apply to these groups.

### What the minimum wage is

The minimum wage is the minimum amount of money that must be paid to every employee for each hour they work. This applies regardless of how the employee is paid, eg employees earning salary, or paid commission, must still be paid at least the minimum wage rate for each hour worked. Employers can pay employees more than the relevant minimum wage, but not less, even if the employee agrees.



## Overtime

Employees must also be paid at least the relevant minimum hourly wage rate for any extra time worked over eight hours a day for (employees paid by the day) or 40 hours a week (for employees paid by the week) or 80 hours a fortnight (for all other employees).

## Piece rates

For employees on piece rates, eg workers who get paid per bin of fruit picked, or by the number of garments produced; the amount earned per hour of work cannot be less than the minimum wage.

## Minimum wage rates

Minimum wage rates are reviewed every year. See [employment.govt.nz/hours-and-wages/pay/minimum-wage/minimum-wage-rates/](https://www.employment.govt.nz/hours-and-wages/pay/minimum-wage/minimum-wage-rates/) or call 0800 20 90 20 for current rates.

### There are three minimum wage rates:

1. Adult minimum wage
2. Starting-out workers must be paid at least the minimum starting-out wage
3. Trainees over 20 years of age must be paid at least the minimum training wage.

### Adult minimum wage

All employees aged 16 years and over must be paid at least the adult minimum wage unless they are starting out workers, trainees, or are covered by a minimum wage exemption. All employees aged 16 years and over who are involved in training or supervising other employees must be paid at least the adult minimum wage rate.

### Supervising or training other workers

Employees who are supervising or training other workers are entitled to be paid at least the adult minimum wage rate.

Whether an employee is 'supervising or training' other workers depends on the situation.

An employee does not have to have direct line management responsibility for other workers

in order to be an employee who is supervising or training other workers. In general, if an employee is 16 years of age or older and is overseeing the performance of another employee, or instructing another employee in the performance of their job it is likely they will be considered as supervising or training other workers. However, the role of supervising or training must be part of that person's job, not a one-off event.

### Starting-out workers

Starting out workers are:

- **16 and 17-year-old** employees who have not yet completed 6 months of continuous employment with their current employer.
- **18-and 19-year-old** employees who have been paid a specified social security benefit for 6 months or more, and who have not yet completed 6 months continuous employment with any employer since they started being paid a benefit. Once they have completed 6 months continuous employment with a single employer, they will no longer be a starting-out workers, and must be paid at least the adult minimum wage rate.
- **16 to 19 year-old** employees who are required by their employment agreement to do industry training for at least 40 credits a year, to become qualified for the occupation to which their employment agreement relates.

### *6 months' continuous employment*

The 6 months' of continuous employment is calculated from the employee's first day of work and is completed when the employee has been continuously employed for 6 months, regardless of how many hours are worked. Any time on leave (paid or not) is included. Continuous employment also includes any time employed by the same employer before the employee turned 16 years of age.



## Trainees

An employee aged **20 years or over** whose employment agreement requires them to undertake at least 60 credits a year in an industry training programme to become qualified for the occupation to which their employment agreement relates is a trainee.

## Minimum wage exemption

The Minimum Wage Act 1983 provides that Labour Inspectors may issue minimum wage exemption permits to workers who are limited by a disability in carrying out the requirements of their work. This means a lower minimum wage rate is set for a particular person in a particular job for the period in the permit.

## Payment of wages

The Wages Protection Act 1983 covers how wages must be paid, and stops unlawful or unreasonable deductions from wages.

Employees should be paid on the day and at the intervals (eg weekly) agreed with their employer. The normal pay day cannot be changed without consulting employees.

Employers must pay wages in cash (New Zealand coins or banknotes) unless:

- the employee is employed by the Crown (government) or a local authority, then they can be paid by cheque
- the employee asked or agreed in writing (eg in their employment agreement) to payment by postal order, money order, cheque or direct credit to their nominated bank account. The employee can vary or remove their consent in writing
- the employee is away from the proper or usual place for the payment of their wages, then they can be paid by postal order, money order, or cheque

Employers cannot put any requirements on employees about how they spend their wages.

## Payment for annual holidays

Payment for annual holidays that employees are entitled to must be made at the rate of the greater of the employee's ordinary weekly pay at the time the holiday is taken or the employee's average weekly earnings over the 12-month period just before the annual holiday is taken. These calculations apply to all employees, including those whose pay has varied over the year or whose work pattern has changed during the year.

### At the end of employment

At the end of employment employees are entitled to annual holiday payments that can both affect and be affected by public holidays, alternative holidays, sick leave and bereavement leave.

## Payment for other holidays and leave

For unworked public holidays, alternative holidays, sick leave and bereavement leave an employee is entitled to be paid (at least) their relevant daily pay (or average daily pay in some specific circumstances).

If an employee works on a public holiday, they must be paid at the rate of (at least) time and a half for the hours they actually work on the day. They are also entitled to an alternative holiday (on pay) if the day is a day they would otherwise be working and they are not employed only to work on public holidays.

## Deductions

In general, employers cannot make deductions (take money) from employees' wages. Employers can only do this where:

- an employee has agreed to or requested the deduction in writing and the deduction is reasonable. For example, an



employment agreement says a certain amount of money can be taken out. An employee can vary or withdraw this consent by giving notice in writing at any time. The employer must then vary or stop the deductions within two weeks of receiving the notice or as soon as practicable. An employer can't make a specific deduction under a general deductions clause without consulting the employee first.

- an employer wants to recover an overpayment where the employee has been absent from work without the employer's authority, been on strike, locked out or suspended. The employer may only recover an overpayment where it was not reasonably practicable to avoid making the overpayment. The employer must tell the employee they intend to recover the overpayment before deducting any money and must make the deduction within the next 2 months.
- a Court directs that a deduction be made.
- the deduction is a bargaining fee that applies to the employee.
- an employer is required by law to make deductions (for example, income tax, child support or other legislated purpose).

If an employer provides board and lodging to an employee, the employer may deduct the cost, but needs written agreement for this, eg in the employment agreement or other written authority. If the amount is not set in the written authority, the employer may not deduct more than 15% for board, or more than 5% for lodging.

## Premiums

It is illegal for an employer to charge an employee a fee for getting or keeping a job. This is called a premium. Some people call it 'buying a job'. It is always illegal, whether it is payment of a lump sum, regular payments, deductions from the employee's pay or making the employee pay their own wages or PAYE tax etc. If you think that you or someone you know is being charged a premium, contact us on 0800 20 90 20.

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## Keeping accurate records

Employers must keep accurate wages and time, and holiday and leave records for all employees. Employee records must be made available to employees, their union and Labour Inspectors if they ask for them. They must be in written form or be easy to access and convert to written form and must be kept for six years.

## Further information or help

See our website [www.employment.govt.nz](http://www.employment.govt.nz) or contact us free on 0800 20 90 20 for more information.

You can also contact your union, lawyer, employers' association, Citizens Advice Bureau, or community law centre.