



Minimum Wage Fact Sheet

Ministry of Internal Affairs
Government of the Cook Islands

Minimum Wage

This fact sheet will provide workers and employers with general guidance and information on their rights and obligations in relation to the minimum wage.

Under the *Employment Relations Act 2012* an employee is entitled to be paid at a fair and reasonable rate, not less than the minimum rate or rates of pay prescribed by the *Employment Relations (minimum rate of pay) Regulations*.

The minimum rate of pay for all employees was set at \$6.25 an hour, effective from 1 July 2015. This \$6.25 an hour is a gross amount, meaning \$6.25 an hour before tax and superannuation deductions are made.

All employees are entitled to this minimum rate of pay regardless of location, sector, nationality, age or gender.

Can I receive less than the minimum rate of pay?

No. It is important to know that your employer can not provide you with a rate of pay that is less than the minimum rate of pay prescribed by the *Employment Relations (Minimum Rate of Pay) Regulations*. However, your employer can provide you with a rate of pay that is higher than that set in the regulations.

How is the minimum wage determined?

Under the *Employment Relations Act 2012*, the Minister responsible for administering the Act is required to review the minimum rate of pay on an annual basis. This review must be concluded by 1st March each year.

The *Employment Relations (Review of Minimum Rate of Pay) Regulations* allow the Minister to appoint a Review Panel for the purpose of reviewing the minimum rate of pay. Review Panel members consist of representatives from the Ministry responsible for the administration of the Employment Relations Act 2012; the Ministry of Finance and Economic Management; an association of employers; an association of employees; and one other person appointed by the Minister.

The Review Panel works in accordance with a Terms of Reference, set criteria and invites public submissions from Rarotonga and Pa Enua communities.

On completion of the review the Panel will present their findings and recommendation to the Minister. Upon receiving the report from the Review Panel, the Minister may increase, decrease or maintain the minimum hourly rate of pay. This report is made available to the public.

What if I sign an employment agreement for more than 12 months and the minimum wage is increased during my employment term?

Even if your employment agreement is for more than one (1) year, you are entitled to be paid at the minimum rate of pay prescribed by the *Employment Relations (Minimum Rate of Pay) Regulations*. For example: Your employment agreement is for a 3 year term with a rate of pay of \$6.50 an hour. The minimum rate of pay is changed to \$7.00 an hour during the second year of your contract. Your employer is now required to amend your contract and increase your hourly rate of pay so you are paid no less than the new minimum rate of pay of \$7.00 an hour.

Can an employer terminate an employment agreement if they cannot afford to pay an increase in the minimum wage?

Yes. Under the Employment Relations Act 2012, an employer has the right to terminate the employment of an employee due to a restructure of the business, for genuine reasons, that creates a redundancy of an employee's position. An increase to the minimum wage could constitute a genuine reason for an employer to restructure their business and make positions redundant. If this occurs, it is important to note that the employer must either:

- a) give the employee not less than 2 weeks' notice of the termination; or
- b) pay the employee not less than 2 weeks pay in lieu of notice.

More information on terminating employment under the Employment Relations Act 2012 can be found in the *Ending an Employment Agreement Fact Sheet* available on the Ministry of Internal Affairs website at www.intaff.gov.ck.

Salaried Employees

Unlike casual and wage employees who are paid per hour, salaried employees are paid an annual salary for an annual output. The hourly rate of pay for a salaried worker can still be determined based on the normal hours of work for the position. This hourly rate should not be less than the minimum rate of pay.

Illustrative example 1:

Mary is employed as a salaried worker. She receives an annual salary of \$14,500. Her normal hours of work are 8am to 4pm Monday to Friday. She is entitled to a 1 hour unpaid lunch-break a day, meaning she is paid for 7 hours of work a day or 35 hours a week.

Based on Mary's salary and normal hours of work, she is paid \$7.96 an hour. Mary is therefore being paid above the current minimum rate of pay of \$6.25 an hour.

Working Calculation:

$\$14,500 \div 52 \text{ weeks in a year} = \278.84 a week
 $\$278.84 \div 5 \text{ working days a week} = \55.76 a day
 $\$55.76 \div 7 \text{ working hours a day} = \7.96 an hour

Illustrative example 2:

John is employed as a salaried worker. He receives an annual salary of \$14,500. His normal hours of work are 48 hours a week worked across 6 days. He is entitled to a 1 hour unpaid break a day, meaning he is paid for 8 hours of work a day.

Based on John's salary and normal hours of work, he is paid \$5.80 an hour. John is therefore being paid below the current minimum rate of pay of \$6.25 an hour.

Working Calculation:

$\$14,500 \div 52 \text{ weeks in a year} = \278.84 a week
 $\$278.84 \div 6 \text{ working days a week} = \46.47 a day
 $\$46.47 \div 8 \text{ working hours a day} = \5.80 an hour

Where we were before the Employment Relations Act 2012?

The Cook Islands Industrial and Labour Ordinance 1964 (Ordinance) provided that the minimum rate of pay shall, from time to time, be determined by the Minister and shall be applied from such a date as the Minister may determine.

Before 2013, the minimum rate of pay in the Cook Islands had not been reviewed or changed since 2006. On 1 July 2006 the minimum rate of pay was set as \$5.00 an hour. This was increased to \$6.00 an hour on 1 April 2014 and \$6.25 on 1 July 2015.

Other Fact Sheets

- Ending an Employment Agreement
- Maternity Leave
- Overtime
- Leave Entitlements
- Public Holidays
- Working in the Cook Islands
- Employment Contract Template
- Health, Welfare and Safety in Employment
- Employing a Young Person
- Workers Compensations

Need more information?

Contact: employment@cookislands.gov.ck or +682 29370
Ministry of Internal Affairs

Disclaimer

This document is a guide only. It should not be used as a substitute for legislation or legal advice. The Ministry of Internal Affairs is not responsible for the results of any actions taken on the basis of information in this document, or for any errors or omissions.