Commencement: 30 December 1984

CHAPTER 182

MINIMUM WAGE

Act 42 of 1984
Act 16 of 1985
Act 4 of 1987
Act 26 of 2010

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MINIMUM WAGE

To provide for a minimum wage payable to workers in Vanuatu and for the establishment of a Minimum Wages Board.

PART 1 – PRELIMINARY

1. Interpretation

In this Act unless the context otherwise requires –

Council means the Tripartite Labour Advisory Council established under section 1A of the Employment Act [CAP 160];

worker or **employee** means a person who works or normally works or seeks to work –

(a) under a contract of employment; or,

(b) under any other contract (whether written, oral or implied) whereby he undertakes to perform personally any work or services for another party to the contract who is not a professional client of his;

Minister means the Minister responsible for labour matters.

PART 2 – MINIMUM WAGE

2. Minimum wage for workers

Notwithstanding anything in this Act or any other law, award or agreement or contract of service to the contrary, every worker as from the date of commencement of this Act (30 December 1984) shall be entitled to receive from his employer for his work a minimum wage of VT 7,000 per month* calculated on the basis of 22 working days in a month and 8 working hours in a day:

Provided that -

(a) where a law, award, agreement or contract of service entitles a worker to a higher wage than that specified in this section, such higher wage shall not be reduced;

(b) where pursuant to this Act a minimum wage Order is made by the Minister for workers in any occupation or class or grade of occupation, the minimum wage specified in this section shall cease to apply to such workers as from the date of commencement of such Order.

3. Minister's power to increase minimum wage

(1) The Minister may by Order increase the minimum wage for workers in any occupation or class or grade of occupation, whether generally or in any area, island or region of Vanuatu, or where satisfied that it is necessary to do so, increase the national minimum wage applicable to workers generally.

(2) An Order under this section may –

(a) provide for different minimum wages for workers in different categories of undertakings engaged in the same employment; and

(b) provide that the national minimum wage shall not apply to workers in a specified category or to workers in a specified area or shall apply to such workers only subject to specified conditions.

* *Editor's note: Pursuant to s.2(b) this amount no longer applies. Refer to Minimum Wage and Minimum Wages Board Orders made under this Act.*

PART 3 – THE TRIPARTITE LABOUR ADVISORY COUNCIL

4. *(Repealed)*

5. *(Repealed)*

6. *(Repealed)*

7. Powers and functions of the Council

(1) The Council shall have all powers necessary to perform the functions prescribed in this Act.

(2) (a) The functions of the Council subject to the provisions of subsection (4) hereof, shall be to consider and submit wage proposals to the Minister concerning the fixing of the minimum wage for workers in any occupation or class or grade of occupation, whether generally or in any area, island or region of Vanuatu, in any case in which the Council is of the opinion that the existing wage being paid to workers in any such occupation is unreasonably low.

(b) The Council may also consider and advise the Minister on any other matter relating to the fixing of the minimum wage and remuneration for workers generally.

(3) Before submitting any wage proposal to the Minister, the Council shall make such necessary investigations as it thinks fit and shall take account of the following, amongst others –

(a) the needs of workers and their families;

(b) the general level of wages in Vanuatu;

(c) the cost of living and changes therein;

(d) social security benefits;

(e) the relative living standards of other social groups;

(f) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

(4) Before finally submitting a wage proposal to the Minister the Council shall make such of its proposals known to the public 8 clear days in advance and shall invite any affected member of the public to inspect such a wage proposal document at a specified place and shall call on such persons to make written serious comments or proposals in respect thereof within a specified time limit; and the Council shall have regard to any such public comments or proposals when finally submitting the wage proposal to the Minister.

(5) The Minister may request the Council to advise him on any matter relating to its functions or to submit to him a wage proposal for workers in any occupation or class or grade of occupation.

8. Recommendation of the Council

(1) Any recommendation of the Council on any proposal to fix or increase a minimum wage shall include the following –

(a) a proposed minimum wage; and

(b) such other basic conditions including danger money, dirt money, *on call* or *stand-by* money, as the nature of the case may require.

(2) Where the Minister receives a proposal or proposals from the Council, he shall as soon as possible thereafter make an Order, giving effect to such proposal or proposals:

Provided always that the Minister may where he thinks fit, refer such proposal or proposals back to the Council for its reconsideration before making such an Order.

(3) Where the Minister on receiving a wage proposal from the Council decides to refer such proposal back to the Council for its reconsideration, the Council shall again comply with the procedure prescribed in section 7(4) whether or not the Council has made or intends to make amendments to such a proposal before finally submitting it again to the Minister.

(4) Where the Minister on receiving a wage proposal from the Council, proceeds to make an Order to give effect to such a proposal, he shall have the power to fix the minimum wage for workers in any occupation or class or grade of occupation whether generally or in any area, island or region of Vanuatu.

PART 4 – MISCELLANEOUS

9. Appointment of wage officers

(1) The Minister may appoint wage officers, who may be officers from the Government's Department of Labour.

(2) Every wage officer appointed under the provisions of subsection (1), whether or not he is already an officer in the service of the Government, shall be issued with a certificate of appointment by the Minister authorizing such a wage officer so to act.

(3) The function of a wage officer shall be to assist the Minister and the Council to better carry out their functions and duties prescribed in this Act.

(4) In performing his functions, a wage officer shall have power –

(a) to require an employer to produce wage sheets or other records of wages kept by him and to inspect and examine those sheets or records and to copy any relevant parts thereof;

(b) to require any employer or his servant or agent, to give any information of which he has or should have knowledge in respect of the names and addresses of persons employed by him under whatever terms or conditions, and with respect to the remuneration paid or to be paid for such employment;

(c) to require any worker to give any information which it is in his knowledge to give in respect of the remuneration he has been or shall be receiving for his work generally or for any aspect of it;

(d) at all reasonable times to enter any premises at which any employer to whom a minimum wage Order applies carries on his business (including any place in connection with that business);

(e) to examine, either alone or in the presence of any other person, as the wage officer thinks necessary, any worker or person who used to work, or any employer or his servant or agent, in respect of any matter relating to wage or remuneration received or paid, as the case may be, and the wage officer may require every such person to sign a declaration as to the truthfulness of any statements made in such examination:

Provided that no person shall be required to give any information which would tend to incriminate him.

10. Application of the Act

(1) Subject to the provisions of subsection (2), the provisions of this Act shall apply to all workers, including public servants, members of the teaching service, the police force, the Vanuatu Mobile Force and the prison services and persons employed by statutory bodies.

(2) (a) Where the Board has decided to consider a wage proposal for public servants or for members of the teaching service, the police force, the Vanuatu Mobile Force or the prison services or for persons employed by statutory bodies, it shall consider such a proposal in close consultation –

(i) in the case of public servants, with the Public Service Commission, the Minister responsible for the public service and the Director of the Public Service Department;

(ii) in the case of members of the police force, the Vanuatu Mobile Force and the prison services, with the Police Service Commission, the Commissioner of Police and the Minister responsible for the police, the Vanuatu Mobile Force and the prison service; and

(iii) in the case of the teaching service, with the Teaching Service Commission and the Minister responsible for education; and

(iv) in the case of persons employed by statutory bodies, with such person or authority responsible for the overall management of such statutory body;

(b) Where the Council submits to the Minister a wage proposal for any of the classes or grades of workers mentioned in this subsection, the Minister shall confer with the appropriate Minister responsible for such class or grade of workers before making an Order pursuant to his powers under Part 2.

11. Offences

(1) It shall be an offence for an employer or his servant or agent –

(a) to refuse to comply with a wage officer's request made under section 9(4)(a) or 9(4)(b), or to make any false or misleading statements relating thereto;

(b) to prevent by any means a wage officer from exercising his power under section 9(4)(d); or

(c) to make false or misleading statements in an examination made pursuant to section 9(4)(e).

Penalty: a fine of VT 100,000 or imprisonment for 2 years, or both.

(2) It shall be an offence for a worker to refuse to comply with a wage officer's request made under section 9(4)(c), or to make any false or misleading statements relating thereto or relating to any examination made pursuant to section 9(4)(e).

Penalty: a fine of VT 20,000 or imprisonment for 6 months, or both.

(3) It shall be an offence for an employer to pay a worker a wage or remuneration that is less than the minimum wage prescribed in this Act or in a minimum wage Order for the class or grade of occupation to which such worker belongs.

Penalty: a fine of VT 200,000 or imprisonment for 4 years, or both.

12. Victimisation offence

An employer who is charged or convicted of an offence under section 11 shall not dismiss a worker or otherwise adversely affect him by reason only of the fact that –

(a) his charge or conviction was founded on non-compliance with a minimum wage Order; or

(b) the worker assisted any wage officer by giving information about the employer; or

(c) the worker assisted the Board in any lawful way required by the Board.

13. Regulations

The Minister may by Order make regulations for the better carrying out of the objects of this Act and may prescribe anything that may be prescribed under the Act.

Table of Amendments (since the Revised Edition 1988)

Title	*Amended by Act 26 of 2010*	*7(5)*	*Amended by Act 26 of 2010*
1	*Amended by Act 26 of 2010*	*8(heading)*	*Amended by Act 26 of 2010*
Part 3 (Heading)	*Amended by Act 26 of 2010*	*8(1)*	*Amended by Act 26 of 2010*
4,5 and 6	*Repealed by Act 26 of 2010*	*8(2)*	*Amended by Act 26 of 2010*
7(heading)	*Amended by Act 26 of 2010*	*8(3)*	*Amended by Act 26 of 2010*
7(1)	*Amended by Act 26 of 2010*	*8(4)*	*Amended by Act 26 of 2010*
7(2)(a) and (b)	*Amended by Act 26 of 2010*	*9(3)*	*Amended by Act 26 of 2010*
7(3)	*Amended by Act 26 of 2010*	*10(2)(b)*	*Amended by Act 26 of 2010*
7(4)	*Amended by Act 26 of 2010*		