

REPUBLIC OF VANUATU

MINIMUM WAGE AND MINIMUM WAGES  
BOARD. ACT NO. 42 OF 1984

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REPUBLIC OF VANUATU

MINIMUM WAGE AND MINIMUM WAGES  
BOARD. ACT NO. 42 OF 1984

Assent: 11/12/84

Commencement: 30/12/84

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

BE IT ENACTED by the President and Parliament as follows :

PART I - PRELIMINARY :

INTERPRETATION :

1. In this act unless the context otherwise requires :
  - "Board" means the Minimum Wages Board;
  - "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 :

MINIMUM WAGE FOR WORKERS :

2. Notwithstanding anything in this act or any other law, award or agreement or contract of service every worker as from the date of commencement of this act shall be entitled to receive from his employer for his work at the minimum rate of fifteen thousand vatu (VT 15.000) per month calculated on the basis of twenty two working days in a month and eight working hours in a day : provided
  - a) that where a law, award, agreement or contract of service entitles a worker to a higher rate of remuneration than that specified in this section, such higher rate of remuneration shall not be reduced;
  - b) that where pursuant to this act a minimum wages order is made by the Minister for workers in any occupation or class or grade of occupation, the minimum rate of wages

specified in this section shall cease to apply to such workers as from the date of commencement of such order.

#### MINISTER'S POWER TO INCREASE MINIMUM WAGE :

3. (1) The Minister may by order increase rates of minimum wages 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 under-taking engaged in the same employment; and
  - b) provide that national minimum wage shall not apply to workers of a specified category or to workers in a specified area or shall apply to such workers only subject to specified conditions.

#### PART 3 - THE MINIMUM WAGES BOARD

##### ESTABLISHMENT OF THE BOARD :

4. There shall be established a Minimum Wages Board constituted and organised and having the powers and functions as presented in this Act.

##### CONSTITUTION OF THE BOARD :

5. (1) The Board shall be constituted of the following members:
  - a. Three independent persons appointed by the Minister;
  - b. Three representatives of the employees appointed by the Minister from persons nominated by representative associations of employees ; and
  - c. Three representatives of employers appointed by the Minister from persons nominated by representative associations of employers.
2. All members of the Board shall be appointed for two years and shall be eligible for re-appointment.
3. A member may resign from the Board.

##### ORGANISATION OF THE BOARD :

6. 1) The Minister shall appoint one of the three independent members of the board to be its chairman and another independent member to be the vice-chairman thereof.

- 2) The Minister shall appoint as Secretary to the Board an independent person who is not a member thereof.
- 3) The quorum of the Board to hold a meeting shall be its chairman, or in his absence the Vice-Chairman and four other members.
- 4) The Minister may prescribe rules of procedure for the better organization of the Board.
- 5) Members of the Board shall be paid such remuneration and allowances as may be authorised by the Minister.

#### POWERS AND FUNCTIONS OF THE BOARD :

2. 1) The Board shall have all powers necessary to perform its functions prescribed in this Act.
- 2) a. The functions of the Board subject to the provisions of subsection (4) hereof, shall be to consider and submit wages proposals to the Minister concerning the fixing of minimum rates of wages 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 Board is of the opinion that the existing rate of wages being paid to workers in any such occupation is unreasonably low.  
b. The Board may also consider and advise the Minister on any other matter relating to the fixing of minimum rates of wages and remuneration for workers generally.
- 3) Before submitting any wages proposal to the Minister, the Board 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 wages proposal to the Minister the Board shall make such of its proposal known to the public eight clear days in advance inviting any affected member of the public to inspect such a wages proposal document at a specified place and calling on such persons to make written serious comments or proposals in respect thereof within the time limit specified, and the Board shall have regard to any such public comments or proposals when finally submitting the wages proposal to the Minister.

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

RECOMMENDATION OF THE BOARD :

8. 1) Any recommendation of the board on any proposals 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 Board, 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 back to the Board for its re-consideration before making such an order.
- 3) Where the Minister on receiving a wages proposal from the Board decides to refer such proposal back to the Board for its reconsideration, the Board shall again comply with the procedures set down in section 7 (4) whether or not the Board has made or intends to make amendments to such proposals before finally submitting it again to the Minister.
- 4) Where the Minister on receiving a wages proposals from the Board proceeds to make an Order to give effect to such proposal, he shall have the power to fix the minimum rates of wages 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

APPOINTMENT OF WAGE OFFICERS :

9. a) The Minister may appoint wage officers, who may be officers from the Government's department of Labour Affairs prescribed herein.
- b) Every wages officer appointed under the provisions of this sub-section, whether or not he is already an officer in the service of the Government of the Republic of Vanuatu, shall be issued a certificate of appointment by the Minister authorizing such a wage officer so to act.
- 2) The function of wage officer shall be to assist the Minister and the Board to better carry out their functions and duties of this act.
- 3) In performing his functions a wage officer shall have the power :

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- a) to require an employer to produce wage sheets or other records of wages kept by him and inspect and examine those sheets or records and to copy any relevant part thereof ;
  - b) to require any employer or his servant or agent, to give any information 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 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 wages 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 the wage officer thinks necessary, any worker or person who use to work, or any employer or his servant or agent, in respect of any matter relating to wages or remuneration received or paid, as the case may be and the wage officer may require every such person to sign a declaration of the truthfulness of any statements made in such examination : provided that no person shall be required to give any information tending to incriminate himself.

APPLICATION OF THE ACT :

10. 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 wages 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 so consider such a proposal in close consultation.
  - i) In the case of the 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 Board submits to the Minister a wage proposal for anyone 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.

OFFENCES :

11. 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 paragraph (a) or (b) of subsection (3) of section 9, 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 (3), (d) ; or
  - c) to make false or misleading statement in an examination made pursuant to section 9 (3), (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 officers requests made under section 9 (3) (c), or to make any false or misleading statements relating thereto or relating to any examination made pursuant to section 9, (3), (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 rate of wages or remuneration that is less than the minimum rate set in this act or in a minimum wages order for the class or grade of occupation to which such worker belongs.

PENALTY : A fine of VT 200.000 or imprisonment of 4 years or both.

VICTIMISATION OFFENCE :

12. 1) An employer who is charged or convicted 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 way of giving information about the employer ; or
  - c) the worker assisted the Minimum wage Board in any legal way required by the Board.

TRANSITIONAL PROVISIONS :

13. Notwithstanding anything in this Act to the contrary, all contracts made under any law, award collective agreement or contract of service providing for under this act, in Force immediately before the date of commencement of this act, shall cease to be inforce within one month after that date.

14.

ORDERS :

The Minister may by order make regulation or make orders for the better carrying out of the objects of this act or to prescribe under the Act.

15.

COMMENCEMENT : This Act shall come into force on the 30th December 1984.