

Industrial Relations Act Chapter No.174

Minimum Wages Board Determination N0.1 of 2014

INDEPENDENT STATE OF PAPUA NEW GUINEA

MINIMUM WAGES DETERMINATION NO.1 OF 2014

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1. TITLE

1.1 This Determination shall be referred to as the Minimum Wages Board Determination No.1 of 2014.

2. APPLICATION OF DETERMINATION

2.1 This Determination shall apply to and is in relation to all employers and employees to who the Determination No.1 of 2014 and the Employment Act Chapter No.373 applies.

2.2 For the purpose of this Determination a Minimum Wage Employee is defined as:

- a) An unskilled worker aged 16 and over in formal employment in any industry sector located in either an urban or rural environment; and
- b) Who may or may not be represented by an Industrial Organization registered under the Industrial Organizations Act 1962 (Chapter 173) and if not so represented is considered incapable of entering into a Collective Bargaining process.

3. OPERATION AND DURATION OF THE DETERMINATION

3.1 This Determination shall come into operation on the date of publication in the National Gazette.

3.2 The Determination shall operate from the date of publication of its registration in the National Gazette and shall remain in operation until superseded by a future Minimum Wages board constituted under Section (10) of the Industrial Relations Act Chapter No.174 makes a new Determination or an alternative appropriate body established under appropriate legislation for the purpose of making a Determination.

4. METHOD AND CONDITIONS FOR WAGE ADJUSTMENT SET UP IN DETERMINATION NO.1 OF 2008

4.1 The appropriateness or otherwise if the current method and conditions of wage adjustment as set out in Determination No.1 of 2008 are no longer appropriate and are INCONSEQUENTIAL to the 2014 Determination.

4.2 This Determination shall apply to employees defined in clause 2.2 (a) and (b) and shall exclude employees whose positions by virtue of skills and experience are classified in any way and who are subject to collective bargaining between employees and employers or by their respective registered Industrial Organizations.

5. NATIONAL MINUM WAGE

5.1 A National Minimum Wage is hereby established and shall be paid at the hourly rate set out in clause (5.2) for the hours of work per week specified as the normal hours of work as constituted in the Employment Act Chapter No.373 or as are applicable to the relevant Registered Awards and Common Rule.

5.2 The National Minimum Wage shall be K3.20 an hour which shall become effective from the date of publication of this Determination in the national gazette.

5.3 Twelve months from the date of publication in the National Gazette, the National Minimum Wage shall increase to K3.36 an hour.

5.4 Twenty Four months from the date of publication in the National Gazette, the National Minimum Wage shall increase to K3.50 an hour.

5.5 The National Minimum Wage adjustment and other allowances provided in this Determination shall only apply from the effective date of the Determination stated in Clause (3.1) and not retrospectively.

6. AGRICULTURE SECTOR—PROVISION FOR PARTIAL PAYMENT

6.1 This Determination provides for Agriculture Sector employers, such as those in Coffee, Oil Palm, Tea, Copra and Cocoa growing and production in Papua New Guinea who provide a range of allowances / benefits which are appropriate for personal use and benefit of the employee as defined in Clause 2.2 (a) and (b) and his

(3) I have concluded to the best of my professional ability that this Company cannot maintain minimum wage employee levels as well as sustain itself as a viable business if it has to comply with the 2014 Minimum Wage Determination and pay minimum wage earners at the hourly rate of K.....

(4) As a consequence, on behalf of this Company/Enterprise I make this application for a twelve (12) month exemption to ay this hourly rate of pay based on incapacity to pay as provided in the 2014 Minimum Wage Determination.

(5) I further declare that I will provide sufficient evidence to justify my judgment if and when requested by a duly Department of Labour and Industrial Relations (DLIR) authorized person.

(6) I also recognize that if granted this exemption, the DLIR intends to make known to the PNG Community, the identity of Companies/Enterprises who have been granted such Exemption to pay this hourly rate of pay based on claims of incapacity to pay.

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act* 1962 conscientiously believing the statements contained therein to be true in every particular.

Declared at(c)

Before Me-

theday of20....

(d)

(e)

- (a) Here insert the name address and occupation of person making the declaration.
- (b) Here insert the matter declared to. Where the matter is long it should be set out in numbered paragraphs.
- (c) Signature of person making the declaration.
- (d) Signature of person before whom the declaration is made.
- (e) Here insert title of person before whom the declaration is made.

Note: - Any person who willfully makes a false statement in a Statutory Declaration is guilty of an indictable offence, and is liable to imprisonment with or without hard labour for four years.

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SCHEDULE 2—PART B

PAPUA NEW GUINEA
STATUTORY DECLARATION

I, (a).....of P O Box (b).....,
(name) (address)
..... do solemnly and sincerely declare that:-
(occupation)

(1) I am the duly appointed Company Auditor and authorized to sign this Declaration on behalf of;

.....
Company name Company No.

(2) In respect of this Company Enterprise I have been requested to assess the Company's recent and future cash flows and anticipated profitability for the next twelve (12) months on the basis of minimum wage earners receiving an hourly pay rate of K.....

family, to attribute a monetary value to these allowances / benefits based on an hourly rate which is fair and reasonable and then reduce the hourly rate of pay as provided in this Determination by such value to arrive at a reduced hourly rate of pay which shall be payable to the employee as a cash component of his total remuneration.

6.2 This Determination sets the maximum valuation of such allowances / benefits under this provision to be no greater than 50% of the National Minimum Wage in force. For example:

- a) When the National Minimum Wage in force rises to K3.20/hr the maximum allowable deductions is K3,660 per annum from the date the application was approved by the Secretary for the Department of Labour and Industrial Relations;
- b) When the National Minimum Wage in force rises to K3.36/hr the maximum allowable deductions is K3,843 per annum from the date the application was approved by the Secretary for the Department of Labour and Industrial Relations;
- c) When the National Minimum Wage in force rises to K3.50/hr the maximum allowable deductions is K4,004 per annum from the date the application was approved by the Secretary for the Department of Labour and Industrial Relations.

6.3 Allowances / benefits provided by the employer shall be restricted to: housing, power / kerosene, water, medical assistance, transport assistance, education and land for family garden, when considering Applications for Partial Payment as set out in Clause 6.1.

6.4 Those employers referred to in Clause 6.1 who do not provide any or all of these allowances / benefits set out in Clause 6.3 shall be required to pay the full National Minimum Wage.

6.5 Agricultural Sector employers referred to in Clause 6.1 and who provide the allowances / benefits set out in Clause 6.3 and are proposing as a consequence to pay employees below the minimum wage rate in force shall be required to make an application for partial wage payment to the Secretary for the Department of Labour and Industrial Relations.

6.6. Employers providing some or all of these approved allowances as set down in Clause 6.3 and are proposing as a consequence to pay employees below the National Minimum Wage rate in force shall be required to complete PART A and PART B forms set out in Schedule 1 and Form A and B of Schedule 2 and insert the relevant information in sign, witnessed and forwarded to the Secretary Department of Labour and Industrial Relations.

6.7 All applications for exemptions based on partial payments shall be deliberated upon by a tri-partite committee consisting of the Secretary for Department of Labour and Industrial Relations or his delegate who shall be Chairman and a representative from the Employers Federation of Papua New Guinea and the Papua New Guinea Trade Union Congress or their alternatives.

6.8 Approvals for partial wage payments shall be subject to mandatory annual reviews.

7. APPLICATION FOR EXEMPTION ON INCAPACITY TO PAY

7.1 This Determination provides for exemption from paying the full National Minimum Wage rate in force based on incapacity to pay.

7.2 Claims for incapacity to pay will be reliant on an honest assessment by the Employer, declaring that the expected cash flow from the business and its profitability is insufficient to maintain the level of employment and the sustainability of the business, if it is not exempted from paying the National Minimum Wage in force.

7.3 An approved employer shall not pay less than 75% of the National Minimum Wage in force for the following hourly rates to an unskilled worker referred to in Clause 2.2 (a) and (b).

a) K2.40 an hour from the date the application was approved by the Secretary for the Department of Labour and Industrial Relations.

b) K2.52 an hour, twelve months from the date of the Determinations registration and from the date the application was approved by the Secretary for the Department of Labour and Industrial Relations.

c) K2.63 an hour, twenty four months from the date of the Determinations registration and the date the application was approved by the Secretary for the Department of Labour and Industrial Relations.

7.4 Employers making an application for exemption based on incapacity to pay shall be submitted in writing to Secretary Department of Labour and Industrial Relations together with certified audited Financial Reports.

7.5 All applications for exemptions based on incapacity to pay shall be deliberated upon by a tri-partite committee consisting of the Secretary Department of Labour and Industrial Relations or his delegate who shall be Chairman and a representative from the Employers Federation of Papua New Guinea and the Papua New Guinea Trade Union Congress or their alternatives.

7.6 Approvals for exemption on incapacity to pay shall be subject to mandatory annual reviews.

8. STANDARD PIECE RATE

8.1 Piece rate is defined as the remuneration provided in the Agriculture Sector by an employer to an employee s defined in Clause 2.2 (a) and (b) for performing an agreed measureable unit of work over a specified time period whereby:

Note: - Any person who willfully makes a false statement in a Statutory Declaration is guilty of an indictable offence, and is liable to imprisonment with or without hard labour for four years.

SCHEDULE 2—PART A

PAPUA NEW GUINEA
STATUTORY DECLARATION

I, (a).....of P O Box (b).....,
(name) (address)
..... do solemnly and sincerely declare that:-
(occupation)

(1) I am the duly appointed Company Auditor and authorized to sign this Declaration on behalf of;

.....
Company name Company No.

(2) In respect of this Company Enterprise I have been requested to assess the Company's recent and future cash flows and anticipated profitability for the next twelve (12) months on the basis of minimum wage earners receiving an hourly pay rate of K.....

(3) I have concluded to the best of my professional ability that this Company cannot maintain minimum wage employee levels as well as sustain itself as a viable business if it has to comply with the 2014 Minimum Wage Determination and pay minimum wage earners at the hourly rate of K.....

(4) As a consequence, on behalf of this Company/Enterprise I make this application for a twelve (12) month exemption to ay this hourly rate of pay based on incapacity to pay as provided in the 2014 Minimum Wage Determination.

(5) I further declare that I will provide sufficient evidence to justify my judgment if and when requested by a duly Department of Labour and Industrial Relations (DLIR) authorized person.

(6) I also recognize that if granted this exemption, the DLIR intends to make known to the PNG Community, the identity of Companies/Enterprises who have been granted such Exemption to pay this hourly rate of pay based on claims of incapacity to pay.

PAPUA NEW GUINEA
STATUTORY DECLARATION

I, (a).....of P O Box (b).....
(name) (address)
..... do solemnly and sincerely declare that:-
(occupation)

(1) I am duly authorized to sign this Declaration on behalf of;

.....
Company name Company No.

(2) Our estimated fair and reasonable hourly value of allowances provided to relevant employees of this company is K.....per hour.

(3) If granted exemption to pay the full Minimum Wage as per the 2014 Minimum Wage Board Determination, our Company will pay employees as defined in Clause 2.2 (a) and (b) of the Determination at the hourly rate of K.....per hour for a 44 hour week.

(4) I undertake to make payroll records available on request to the Secretary, Department of Labour & Industrial Relations.

(5) I am aware that if our Company fails to meet its undertakings as per this Declaration then the Company shall be required to back pay employees to the effective date of the 2014 Determination. (Subject to an appeal process)

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act* 1962 conscientiously believing the statements contained therein to be true in every particular.

Declared at(c)

Before Me-

theday of20....

(d)

(e)

(a) Here insert the name address and occupation of person making the declaration.

(b) Here insert the matter declared to. Where the matter is long it should be set out in numbered paragraphs.

(c) Signature of person making the declaration.

(d) Signature of person before whom the declaration is made.

(e) Here insert title of person before whom the declaration is made.

a) A unit of work is defined as the work output of healthy adult person performing at a reasonable and sustainable work rate and which is measureable by count and/or volume and/or weight and/or area; and

b) The total remuneration earned by the individual for achieving a specified number of piece rate work units over a specified time period shall generally be equivalent to the remuneration earned by similar individuals performing at a similar work rate generating a similar output but paid at a hourly rate of pay; and

c) The unit of work and the output rate for a time period must be agreed to by both the employer and the employee or by their respective Registered Industrial Organization before piece rate is applied.

9. APPROPRIATENESS OR OTHERWISE OF VARIOUS ALLOWANCES

9.1 The Camping Allowance shall be increased to K1.31 per day; excluding meal costs, sleeping gear, and specialist equipment which shall be fully borne by the employer.

9.2 The Tool Allowance shall be increased to K1.64 per week.

9.3 An employee who in accordance with his duty is engaged in heavy labor work within the meaning of the Employment Act (Chapter No.373) and has been declared by the Minister for Labour and Industrial relations as heavy labour, shall be paid a Heavy Duty Allowance of ten (10%) of the National Minimum Wage.

9.4 All other Allowances shall be subject to Collective Bargaining between the social partners.

10. PROVISION TO AMEND WORK HOURS—AGRICULTURE SECTOR

10.1 Provided only that an employer in the Agriculture Sector is prepared and able to offer employees as defined in Clause 2.2 (a) and (b) regular hourly paid work combined with piece rate work: and

a) Provided only that an employee agrees with such an arrangement; and

b) Provided also that the employer has complied with Clause (6) of this Determination and is entitled to pay a reduced cash wage component to employees.

10.2 Their daily hours of regular hourly paid work for such regular work can be reduced from eight (8) hours per day to a minimum of four (4) hours per day subject to the following conditions:

a) The applicable hourly rate of pay shall be the cash wage per hour component as determined in Clause (6) paid for the actual hours of such work nominated and worked; and

- b) The employee is provided with piece rate work in his own time without restrictions; and
- c) The applicable piece rate payable shall be at the agreed rate; and
- d) The total remuneration paid to the employee must be equal or exceed eight (8) times the hourly rate.

11. NO FLOW ON

11.1 The 2014 National Minimum Wages Board strongly encourages all Industrial Organizations, Industrial Registrar and the Chairperson of the Conciliation and Arbitration Tribunal to desist from entertaining any wage flow on as a direct or inferred consequence of the 2014 Determination.

Determination on this 30th day of April, 2014 in Port Moresby by the 2013 Minimum Wages board comprising of:

- Beverley Doiwa - Chairperson
- Moses Tawa - Member, Government Representative
- Patrick Gaiyer - Member, Churches Representative
- Margaret Lokoloko - Member, Women Representative
- Reginald McAlister - Member, Maritime Workers Union Representative
- Anton Sekum - Member, PNG Trade Union Congress Representative
- Florence Willie - Member, Employers Representative
- Chey Scovell - Member, Employers Representative

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 SCHEDULE 1—PART A

Form A

Agriculture Sector employers seeking to pay a reduced ‘cash wage’ to Minimum Wages earners, after providing for allowances/benefits to employees as part of their remuneration package, are required to provide the following information:

1. Employer’s best annual cost estimate which is considered both fair and reasonable for the particular allowances/benefits provided to Minimum Wages earners is defined.
2. Total all the allowances/benefits per employee and calculate on an hourly basis, the value of allowances/benefits provided. (Divide total by 52 weeks/year and divide answer by 44 hours/week).

3. Deduct the calculated value of allowances/benefits provided per hour from the current National Minimum Wage to arrive at the rate per hour to be paid as the cash component of the employee’s wage.
4. Multiply the calculated hourly rate of the cash wage component by 44 to arrive at the weekly cash wage component payable.
5. Transfer information to PART B of the attached SCHEDULE 1 - STATUTORY DECLARATION, sign and have signature witnessed and forward to THE SECRETARY, DEPARTMENT OF LABOUR & INDUSTRIAL RELATIONS at the address noted.

BENEFITS GUIDELINE PER EMPLOYEE	
	EMPLOYER EST. PER ANNUM
HOUSING/POWER/WATER	
SCHOOLING ASSISTANCE – 3 CHILDREN	
MEDICAL ASSISTANCE – 5 PERSONS	
HOUSING ALONE	
POWER/KEROSINE ALONE	
WATER ALONE	
TRANSPORT ASSISTANCE	
GARDENING LAND	
OTHER (SPECIFY)	
TOTAL CLAIM PER ANNUM	

SCHEDULE 1 - PART B