



## FAQ's for The National Minimum Basic Wage

February 2016

### 1. How much is the National Minimum Basic Wage?

The National Minimum Basic Wage is CI\$6.00 (gross) per hourly rate for most employees, and the gross hourly minimum wage rate for service employees of an employer that has a registered gratuities scheme is CI\$4.50. There are also special calculations for live-in household domestics and employees who work on a commission basis.

### 2. When does the National Minimum Basic Wage come into effect?

March 1<sup>st</sup> 2016

### 3. Is an employer required to pay the National Minimum Basic Wage?

Yes. An employer cannot pay any less than the appropriate National Minimum Basic Wage, but that does not prevent an employer from paying more than the National Minimum Basic Wage. Term and conditions, including salary/wages, of employment are typically negotiated and agreed between the employer and employee and should be contained in a statement of working conditions.

### 4. Does the National Minimum Basic Wage apply to people who work in the hospitality industry?

Yes. The National Minimum Basic Wage is CI\$4.50 per hour for service employees who work for an employer that has in place a scheme for the distribution of gratuities that is approved in writing by the Director of the Department of Labour and Pensions. This CI\$4.50 per hour gross is to be paid directly by the employer, in addition to all gratuities earned by such employees during the relevant pay period.

Once the Labour Relations Bill is finalised, approved in the Legislative Assembly and enacted, it is expected that the Law will allow for no more than 25% or CI\$1.50 per hour to be allocated from the gratuities earned by the employee to be put towards making the National Minimum Basic Wage, and the stated National Minimum Basic Wage for these employees will be amended to be CI\$6.00 per hour gross, to bring it in line with all other employees.



**5. Does the National Minimum Basic Wage apply to domestic employees?**

Yes, the CI\$6.00 per hour minimum wage rate applies to household domestics. However, household employers with 'live in' household domestic employees may count a maximum of 25% or no more than CI\$1.50 towards achieving the CI\$6.00 Minimum Wage as a credit for accommodations and utilities. In this situation, the least that can be paid in monetary compensation to the employee is CI\$4.50 per hour. This provision is ONLY provided for household employers with 'live in' employees.

**6. Is there an allowance for employers who pay for their employees' accommodations?**

There is only an allowance in the case of household employers with 'live in' domestic employees; not in any other employment scenario.

**7. What about household employers who provide food and other items in addition to accommodations for their live-in domestic employees?**

The 25% or CI\$1.50 in kind credit applies to the provision of accommodations and utilities **only**. The household employer and live-in domestic employee are free to make agreements between themselves as it relates to the provision of food, etc.

**8. Does the National Minimum Basic Wage apply to persons who work on commissions?**

Yes. However, for the computation of an employee's wages that works on a commission basis, the employer may use no more than 25% or CI\$1.50 per hour to be allocated from the commission earned by the employee to be put towards making the National Minimum Basic Wage of that employee. The inclusion of commissions in the computation of meeting the National Minimum Basic Wage must not however prevent that employee from receiving all commissions earned.

**9. Is there any employee or any employer that the Order does not apply to?**

The National Minimum Wage Order does not apply to self-employed persons. The National Minimum Basic Wage Order also does not apply to a juvenile, which is a person under the age of seventeen years, who is required by law to attend school.

Because the current Labour Law does not apply to charitable organisations and churches, these employers are currently exempt from the National Minimum Basic Wage Order. However, once the Labour Relations Bill is finalised, approved in the Legislative Assembly



and enacted, it is expected that churches and charitable organisations would be covered by the law and then would be required to pay their employees at least the National Minimum Basic Wage.

**10. How will the government know if employers are abiding by the Minimum Wage Order?**

The enforcement will be managed by the Department of Labour and Pensions and their team of inspectors.

**11. What is the penalty for employers that do not pay the minimum wage?**

Under Section 81 of the Labour Law (2011 version), the Court is able to give a summary conviction for a first offence of up to \$2,500 and to imprisonment for 6 months and in the case of a second or subsequent offence a fine of \$5,000 and imprisonment for 12 months.

**12. How do employees complain if they are not paid the minimum wage?**

The enforcement will be managed by the Department of Labour and Pensions and their team of inspectors and employees can contact the Department at 945-8960. Employees will also be able to utilise a confidential labour tip line 945-3073 to report any breaches made by their employer.

**13. Is the National Minimum Basic Wage the salary the employee takes home or is it before health and pension deductions?**

The effective National Minimum Basic Wage is the gross rate; therefore, this is the rate before applicable pension and health insurance deductions.

**14. How does this affect any overtime worked (over the defined 45 hour work week or the defined 9 hour standard work day)?**

As defined within the Labour Law (2011 Revision), employees should be paid one and a half times their normal hourly wage for any time worked beyond the defined standard work week of 45 hours or the standard work day of 9 hours. However, there may be an exception to this if an employer and employee have an overtime waiver that has been granted by a Labour Tribunal.



**15. How is sick leave, vacation leave, maternity leave or other types of leave calculated in relation to the National Minimum Basic Wage?**

No employee, including service employees, live in household domestics, and commission based employees, shall receive less than their respective National Minimum Basic Wage when the employer calculates their leave.

For the avoidance of doubt, the employer of a live in domestic helper may continue to calculate any allocated in kind benefits for accommodations and utilities during periods of sick, vacation, maternity or any other applicable leave. That means that if the live-in domestic employee is making the National Minimum Basic Wage of CI\$6.00 per hour gross, and the household employer is counting CI\$1.50 per hour earned towards the provision of accommodation and utilities to the employee, then sick leave, vacation leave, maternity leave or other types of leave must be calculated and paid at a minimum of CI\$4.50 per hour.

**16. Does the National Minimum Basic Wage apply to students working part time?**

The National Minimum Basic Wage does not apply to the payment of wages for any person under the age of 17 who is required by law to attend school.

**17. Does the National Minimum Basic Wage apply to employees over 60 years?**

Yes.

**18. Does the National Minimum Basic Wage apply to part time employees?**

Yes. The National Minimum Basic Wage Minimum Wage would be applicable for all regular hours that an employee works.

**19. Why is a minimum wage necessary in the Cayman Islands?**

Governments are commonly understood to have a social and moral responsibility to take action where necessary to look out for the collective well-being of all people and to prevent injustice and exploitation. The National Minimum Basic Wage is one such tool that can make a genuine difference to improve the lives of the lowest paid workers, and having a minimum wage rate will assist low wage workers in staying above the economic vulnerability threshold in the Cayman Islands.



## 20. How was the \$6.00 amount determined?

In setting the Minimum Wage the balance between the needs of the individual and his/her family (the employee) and the needs of the economy and the affordability to pay (the employer) were all taken into consideration. Setting the minimum wage required a balancing act to ensure that there is economic stability, but at the same time allowing people to meet their minimum basic needs.

The Minimum Wage Advisory Committee (MWAC) wanted to ensure that all people in the Cayman Islands have a decent standard of living, and in order to establish a minimum wage, a consensus on a poverty threshold wage needed to be established. Based on the available statistical data, the MWAC established the Cayman Islands Economic Vulnerability Threshold (CI-EVT), which in essence is the lowest income boundary that an earner would require in order to prevent their household from potentially falling into poverty. The CI-EVT rate was determined by the MWAC in 2015 to be CI\$5.22 per hour, therefore in order to achieve a clear policy objective of addressing exploitation and providing real relief to the lowest paid workers, the minimum wage rate had to be above the CI-EVT rate of CI\$5.22 per hour.

## 21. Will the National Minimum Basic Wage ever increase or decrease?

The establishment of a National Minimum Basic Wage is a starting point based on current economic conditions. In order to ensure that it is meeting the needs of the country and the policy objectives of the minimum wage, the National Minimum Basic Wage will need be studied and reviewed on a regular basis going forward, as recommended in the MWAC 2015 Report. The situations of both the employers and employees need to be considered in all subsequent reviews. It is anticipated that the finalized, approved and enacted Labour Relations Bill will provide guidance on the future review process of the National Minimum Basic Wage.

## 22. I am being paid monthly. How can I figure out the hourly rate for my monthly salary?

Take the employee's monthly gross salary – *that is the amount before the legally required deductions of health insurance and pension are calculated*- and multiply that figure by 12 (the number of months in a year). Take the total number of standard working hours the employee is expected to work and multiply that figure by 52 (the number of weeks in a



year). Then divide the annual salary by the number of standard working hours per year to arrive at the hourly rate.

In order to be compliant with the Law, the hourly rate should be no less than CI\$6.00 per hour or CI\$4.50 per hour for qualifying service employees, live in domestic employees or employees working on a commission basis.

A Minimum Wage Calculator will be available on the Department of Labour and Pensions' website in the very near future, but below is also a simple example of how to calculate a monthly salaried employee to see if the person is receiving at least the minimum wage.

**Example:**

Employee is contracted to work 40 standard hours per week for \$1,200.00 per month.

\$1,200.00 Gross Salary per month

- \$150.00 Health Insurance
- \$ 60.00 Employee Pensions Contribution (5%)

\$990.00 Net Salary per month

\$1,200 Monthly Salary x 12 Months = \$14,400.00

Number of standard hours per week 40 x 52 weeks in a year = 2,080 standard hours per year

\$14,400.00 (annual regular salary)/2080 (annual standard hours worked) = **\$6.92 per hour**

**23. What is the difference between a Minimum Wage and a Living Wage?**

The International Labour Organization (ILO) defines a minimum wage to mean *“the minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of*



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*national economic and social conditions.”* The important aspects which define a minimum wage are 1) ***it is guaranteed by law*** and 2) ***it cannot be changed by individual or collective agreement.***

A Living Wage is based on the basic cost of living in a country or area in a country, but it is not enforceable by law nor is there any universally accepted definition of a Living Wage or agreement on how to calculate it.

#### **24. Where can I find more information about the Minimum Wage Order?**

The Ministry of Education, Employment and Gender Affairs website [www.education.com.ky](http://www.education.com.ky) has links to the Minimum Wage Advisory Committee’s 2015 report and Labour Law documents (including the Labour (National Minimum Basic Wage) Order, 2016), which can be downloaded and printed or viewed online.