

Minimum Wage (Abolition of Age Discrimination) Amendment Bill

Member's Bill

Explanatory note

Discrimination on the ground of age is one of the prohibited grounds of discrimination set out in section 21 of the Human Rights Act 1993. New Zealand's commitment to ending such discrimination by or on behalf of the Crown is affirmed in section 19(1) of the New Zealand Bill of Rights Act 1990, which states "Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993."

Section 4 of the Minimum Wage Act 1983 currently permits the Governor-General in Council to prescribe minimum wages that discriminate on the basis of age. In practice, successive Minimum Wage Orders promulgated under the Minimum Wage Act 1983 have discriminated against workers aged 16 and 17, in that they have set lower rates of minimum wage for this age group than for other workers.

Such discrimination is arbitrary, inequitable and unjustifiable under the principle of equal pay for work of equal value.

This Bill seeks to make the Minimum Wage Act 1983 consistent with the anti-discrimination provisions of New Zealand's Human Rights legislation by removing the ability to arbitrarily discriminate on the ground of age in setting minimum wage rates under the Act. The Bill consequentially amends the Minimum Wage Order 2005 to remove such discriminatory provisions.

The Bill recognises there is justification for paying a lower minimum wage to apprentices and those who are genuine trainees whose employment contains a significant training component.

The Bill also recognises that it is on occasion justifiable to pay a wage lower than the minimum to a disabled worker who, on account of his or her impairment, is incapable of earning wages at the minimum rate.

The provisions of the Minimum Wage Act 1983 Act that permit lower rates being paid to apprentices and genuine trainees, and to disabled workers who are incapable of earning wages at the minimum rate, therefore remain unaffected by this Bill.

Clause by clause analysis

Clause 1 gives the Bill its Title.

Clause 2 is a commencement provision. It provides that the Bill will come into force thirty days after the date it receives the Royal assent.

Clause 3 states the Bill's purpose.

Clause 4 amends section 4 of the Minimum Wage Act 1983 to remove the ability for the Governor-General in Council to prescribe minimum wage rates that discriminate on the ground of age.

Clause 5 provides for consequential amendments to the Minimum Wage Order 2005.

The Schedule sets out the consequential amendments to the Minimum Wage Order 2005.

Sue Bradford

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Contents

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Minimum Wage (Abolition of Age Discrimination) Amendment Act 2005.
- (2) In this Act, the Minimum Wage Act 1983 is called "the principal Act".

2 Commencement

This Act comes into force thirty days after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to amend the principal Act to end age discrimination in employment by removing the ability of the Governor-General in Council to set minimum wage rates defined by reference to the age of workers.

4 Prescription of minimum wages

Section 4(1) of the principal Act is amended by: -

- (a) omitting the words "either or both of the following"; and
- (b) repealing paragraph (a).

5 Consequential amendments to Minimum Wage Order 2005

The Minimum Wage Order 2005 is consequentially amended in the manner indicated in the Schedule.

Schedule

Consequential Amendments to the Minimum Wage Order 2005

Regulation 2 –

- (a) Amend the definition of "adult worker" by omitting the number "18" and substituting the number "16"; and
- (b) Revoke the definition of "youth worker".

Regulation 5 – Revoke Regulation 5.