

# LHAG Insights

Employment & Industrial Relations



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### Prospective New Minimum Wage

Recently, the human resources minister stated that a new minimum wage rate is to be implemented by end-2022. While the new rate has not been finalised pending government approval, he suggested that it would be “around RM1,500 and below”.<sup>1</sup>

This piece of news drew mixed reactions. The Malaysian Trades Union Congress welcomed such a move.<sup>2</sup> However, the Malaysian Employers Federation was of the view that the implementation of a new minimum wage rate would derail economic recovery.<sup>3</sup>

### What is minimum wage?

**Section 2** of the National Wages Consultative Council Act 2011 defines minimum wages as basic wages determined by the government which will be ordered by the Human Resources Minister via a Minimum Wages Order.<sup>4</sup> The implementation of national minimum wages was first introduced in Malaysia via the Minimum Wages Order 2012 enforced on 1 January 2013. At that time, the minimum wage rate payable to employees in Peninsular Malaysia was RM900 per month, whereas the rate in Sabah, Sarawak and the Federal Territory of Labuan was RM800 per month.

<sup>1</sup> Ilah Hafiz Aziz, 'Gaji minimum RM1,500 dilaksana akhir tahun ini' (*Berita Harian*, 5 February 2022) <https://www.bharian.com.my/berita/nasional/2022/02/919128/gaji-minimum-rm1500-dilaksana-akhir-tahun-ini>

<sup>2</sup> Nicholas Chung, 'Raise minimum wage by mid-year, says MTUC' (*Free Malaysia Today*, 7 February 2022) <https://www.freemalaysiatoday.com/category/nation/2022/02/07/raise-minimum-wage-by-mid-year-says-mtuc/>

<sup>3</sup> 'MEF: RM1,500 new minimum wage would derail economic recovery' (*Malay Mail Online*, 6 February 2022) <https://www.malaymail.com/news/malaysia/2022/02/06/mef-rm1500-new-minimum-wage-would-derail-economic-recovery/2039761>

<sup>4</sup> National Wages Consultative Council Act 2011 [Act 732], s 23

Since then, the minimum wage rate has been revised thrice via the Minimum Wages Order 2016, 2018 and 2020. The current minimum wage being implemented in Malaysia is imposed by the Minimum Wages Order 2020, which came into force on 1 February 2020 (**2020 Order**). Pursuant to the 2020 Order, two different sets of minimum wage rates are applicable:

- (a) The minimum wage rates payable to an employee who works in a place of employment in any of the 16 City Council or 40 Municipal Council areas as specified in the Schedule<sup>5</sup> shall be as follows:<sup>6</sup>

Minimum wage rates				
Monthly	Daily			Hourly
	Number of working days in a week			
	6	5	4	
RM1,200	RM46.15	RM55.38	RM69.23	RM5.77

- (b) The minimum wage rates payable to an employee who works in a place of employment other than the City Council or Municipal Council areas as specified in the Schedule shall be as follows:<sup>7</sup>

Minimum wage rates				
Monthly	Daily			Hourly
	Number of working days in a week			
	6	5	4	
RM1,100	RM42.31	RM50.77	RM63.46	RM5.29

It is worth noting that since the minimum wage rates in Malaysia have been revised biennially, employers should be prepared to adopt the prospective revision which may be implemented by the end of this year. In any event, prior to revising the minimum wage rate, the government shall be advised by the National Wages Consultative Council on such matters.<sup>8</sup>

### National Wages Consultative Council

The National Wages Consultative Council (**Council**) was established under the National Wages Consultative Council Act 2011<sup>9</sup> and its primary function is to advise the government on all matters relating to minimum wages.<sup>10</sup> **Section 4(1)** of the National Wages Consultative Council Act 2011 sets out the Council's functions, among others, as follows:

- (a) to make recommendations to the government on the minimum wage rates and coverage according to sectors, types of employment and regional areas, and other matters relating to minimum wages;

<sup>5</sup> National Wages Consultative Council Act 2011 [Act 732], Schedule

<sup>6</sup> National Wages Consultative Council Act 2011, s 4

<sup>7</sup> National Wages Consultative Council Act 2011, s 6

<sup>8</sup> National Wages Consultative Council Act 2011, s 22

<sup>9</sup> National Wages Consultative Council Act 2011, s 3

<sup>10</sup> National Wages Consultative Council Act 2011, s 4(1)

- (b) to consult the public on the minimum wage rates and coverage;
- (c) to collect and analyse data and information and to conduct research on wages and the socio-economic indicators;
- (d) to coordinate and supervise, and evaluate the impact of, the implementation of minimum wages; and
- (e) to review the existing minimum wages order.

In determining the minimum wage rate, the International Labour Organization in its Minimum Wage Fixing Recommendation, 1970 (No 135)<sup>11</sup> provides that the following criteria should be taken into consideration:

- (a) the **needs of workers** and their families;
- (b) the **general level of wages** in the country;
- (c) the **cost of living** and changes therein;
- (d) the **social security benefits**;
- (e) the **relative living standards** of other social groups; and
- (f) **economic factors**, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

### **Non-compliance with Minimum Wages Order**

In the event that a new minimum wages order is enforced, employers should be mindful to make the necessary revision to the relevant employees' basic wages. Any employer who fails to comply with the new order commits an offence under **s 43** of the National Wages Consultative Council Act 2011 and shall, on conviction, be liable to a fine of not more than RM10,000 for each employee. In addition, the court before which the employer is convicted may also order the employer to pay:

- (a) the difference between the minimum wage rate in force and the basic wages paid by the employer to the employee, including the outstanding differences;<sup>12</sup> and
- (b) other payments accrued from the calculation of wages based on the basic wages which shall be in accordance with the minimum wage rates as specified in the minimum wages order.<sup>13</sup>

<sup>11</sup> R135 – Minimum Wage Fixing Recommendation, 1970 (No 135)  
[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312473](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312473)

<sup>12</sup> National Wages Consultative Council Act 2011, s 44(1)(a)

<sup>13</sup> National Wages Consultative Council Act 2011, s 44(1)(b)



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## Conclusion

It is unquestionable that the determination of the appropriate minimum wage rate requires a balancing act between the interests of employees and employers. While the rising cost of living may appear as a straightforward justification for raising the minimum wage rate in Malaysia, public consultations and engagements with representatives of employers and employees, employers' organisations and trade unions are indispensable in order to assess the impact of the implementation of a new minimum wage on Malaysia's socio-economy.

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