



Office of Hon Michael Woodhouse

Minister of Immigration

Minister of Police

Minister for Workplace Relations and Safety

19 JAN 2016

Mr Justin Ryan
PO Box 7164
Sydenham
Christchurch 8240

Dear Justin

Thank you for your letter of 2 November 2015 regarding current employment legislation and pay.

All employers in New Zealand must comply with the Minimum Wage Act 1983 (the Act). This means that an employee must be paid at least the minimum wage for the relevant assessment period as set out in the applicable Minimum Wage Order (currently the Minimum Wage Order 2015). The example payment you have provided appears to be in breach of the Act. A salaried employee must be paid at least the minimum wage for all hours worked each fortnight as a fortnight is the longest assessment period provided for in the Minimum Wage Order 2015. They cannot work more hours in one fortnight and be paid effectively less than the minimum wage even if they work fewer hours in a subsequent fortnight. This "averaging" has been expressly ruled out by a number of Court rulings.

Provided the Act is complied with there is nothing that prevents an employer from accruing an employee's hours for later payment. Therefore, as long as at least the minimum wage is paid for each hour worked in a fortnight, accrual of hours is a matter for agreement between the employer and employee.

Finally, the Act applies regardless of whether the employee is a New Zealand resident or here on a Work Visa.

If you are uncertain about your obligations under the relevant legislation I encourage you to seek legal advice.

Once again thank you for your letter.

Yours sincerely

Michael Woodhouse
Minister for Workplace Relations and Safety