



## FAQ ON THE CANTONAL MINIMUM WAGE

### 1. What does the Minimum Wage Act (MiLoG) regulate and from when does it apply?

The cantonal minimum wage has been in force since 1 July 2022. The Government Council has enacted the law, which was approved by the electorate in June 2021. At the same time, the Government Council adopted the implementing ordinance. The minimum wage added up to CHF 21.45 in 2023. From 1 January 2024 the amount due will be CHF 21.70.

The cantonal minimum wage is paid to employees whose usual place of work is in the canton of Basel-Stadt. The cantonal minimum wage does not apply in sectors with a generally binding collective labour agreement.

Moreover it has no effect on employees from outside the canton who occasionally work in Basel-Stadt. Posted foreign employees do not have their usual place of work in the canton of Basel-Stadt. The Agreement on the Free Movement of Persons and the Swiss Code of Obligations prohibit discrimination between Swiss workers and those from the EU/EFTA. This means that compliance with the local and industry-standard wage must also be observed in the case of posted workers, which means that the cantonal minimum wage also applies to posted workers for work in the canton of Basel-Stadt.

### 2. How should employers and workers covered by the MiLoG proceed?

It is advisable for potentially affected employers to seek for advice in case of insecurities, to review existing employment contracts and to adapt these if necessary. Inspections of compliance with the minimum wage and the associated sanctions are also provided in the MiLoG.

[If you have any questions, please contact the legal counselling service of the Office of Economic Affairs and Employment \(AWA\).](#)

### 3. The employee is covered by a collective agreement. Does the employer still have to pay the minimum wage?

It depends.

If employees are subject to a generally binding collective labour agreement, the cantonal minimum wage does not apply because they are exempt from the Minimum Wage Act (§ 2 para. 2 lit. h MiLoG). However, employers must comply with the minimum wages provided for in the collective

labour agreement. You can find the latest information on collective labour agreements that have been declared generally binding at the [State Secretariat for Economic Affairs SECO](#). This exception also applies if personnel are covered by the personal scope of the collective labour agreement but no minimum wage applies to this category of workers (see e.g. Art. 17.1 Collective Labour Agreement of the Swiss Electrical Industry). In these cases the respective Joint Commission (Paritätische Kommission) must be contacted to determine the wage applicable.

Collective labour agreements are negotiated by employer and employee representatives. Such agreements not only contain wage requirements, but also other benefits (more holidays, 13th month pay, fewer working hours per week, more than the statutory supplements, cover in the event of illness, etc.). If they are declared generally binding, which is the responsibility of the Federal Council or the Government Council. Thus, such collective agreements are already subject to a comprehensive review scenario, and the protection of workers is guaranteed. Therefore, employment relationships with generally binding collective agreements are exempt from the MiLoG. Minimum wages in these collective agreements can also be lower than the cantonal minimum wage for the reasons mentioned.

If the collective labour agreement has not been declared generally binding, employers are required to pay the cantonal minimum wage (retroactively if necessary) to the date on which the Minimum Wage Act came into force (cf. § 9 MiLoG), provided the wage is lower than the cantonal minimum wage.

#### **4. The employee is subject to a standard employment contract with mandatory minimum wages. Does the employer still have to pay the minimum wage of the MiLoG?**

If employees are subject to a standard employment contract with mandatory minimum wages, the cantonal minimum wage does not have to be paid, as they are exempt from the Minimum Wage Act (section 2 para. 2 lit. h MiLoG). However, employers must comply with the minimum wages provided for in the standard employment contract. You can find the latest information on standard employment contracts with mandatory minimum wages at the [State Secretariat for Economic Affairs SECO](#). This exemption also applies if staff fall within the territorial scope of the standard employment contract but no minimum wage applies to this category of workers.

Section 20 of the standard employment contract for agricultural employment in the canton of Basel-Stadt stipulates that the monthly wages according to the "Wage Guidelines for Non-Family Workers in Swiss Agriculture, including Agricultural Home Economics" apply as a minimum. An individual employment contract may however be modified (§ 2 para. 1), which is why they are not considered minimum wages. Thus, the Minimum Wage Act is applicable to agricultural employment relationships.

#### **5. Do employers have to pay a supplementary holiday allowance and additional bank holiday compensation in addition to the cantonal minimum wage?**

Yes, the statutory holiday supplement must be paid in addition to the minimum wage (§ 3 para. 1 MiLoG). The supplement owed is 8,33% (= four weeks' holiday) for workers over 20 years of age and 10,64% (= five weeks' holiday) for workers under 20 years of age.

This means that hourly-paid workers are not only owed CHF 21.70 gross per hour, but CHF 21.70 plus 8.33% or 10.64% per hour. This results in an amount of CHF 23.51 for over 20-year-olds and CHF 24.01 for under 20-year-olds. For workers employed on a monthly wage, holidays are already included in the monthly wage. To calculate the minimum monthly wage, the monthly wage must be

converted to the corresponding hourly wage without subsequently adding the aforementioned statutory holiday supplements. The calculated hourly wage must then be CHF 21.70 (see question 6).

If employers grant more than four weeks' holiday, they are still required to comply with the minimum wage. This means that they must pay CHF 21.70 plus the individually agreed holiday supplement. For example, employers who contractually grant five weeks' holiday pay CHF 24.01 (minimum wage CHF 21.70, supplement of 10.64% = CHF 2.31).

In addition, a statutory bank holiday supplement must be paid for August 1 for hourly-paid employees (Art. 110 para. 3 of the Swiss Federal Constitution). This means that for hourly paid employees, not only a gross amount of CHF 21.70 per hour is owed, but CHF 21.70 plus 8.33% or 10.64% per hour for vacation compensation as well as a surcharge of 0.39% for the bank holiday supplement (August First). This results in an amount of CHF 23.59 for employees over 20 years of age and CHF 24.09 for employees under 20 years of age. In the case of employees on a monthly salary, the vacations and public holidays are already included in the monthly salary.

## 6. How do you determine the hourly wage based on a monthly wage?

The following formula can be used to calculate the hourly wage:

- The weekly working time (a weekly working time of 42 hours is taken as an example) is extrapolated to the annual working time.
- The weekly working time is thus multiplied by 52 (52 weeks per year, including holidays) (52x42 gives 2184 hours per year).
- The annual working time is divided by 12 (12 months), which gives the workload for the month (182 hours per month).
- The monthly wage is divided by the 182 hours to calculate the hourly wage.

### Example:

- Monthly wage: CHF 4'000.00
- Weekly working time: 42 hours.
- Hourly wage: CHF 21.98 (42\*52= 2184; 2184/12=182; 4'000.00/182)

Formula:

$$\frac{\text{Monthly wage}}{\text{Weekly working time} * 52/12} \geq \text{CHF } 21.70$$

## 7. What must be noted on the payslip and what must be included in the employment contract?

According to Art. 323b CO, the employee is entitled to a written payslip.

**Caution:** Holiday, night or other supplements must always be indicated separately on the pay slip. We also strongly advise that the basic wage, agreements on supplements, references to supplements of the Labour Code, holiday supplements be listed separately in the employment contract. In contract negotiations and oral employment contracts, care should also be taken not to agree on a "total wage". Employers who do so run the risk of being ordered to pay the supplements a second time in court proceedings. The wage statement should look like this:

Basic wage (Minimum Wage)	CHF	21.70
Holiday supplement: 8.33%	CHF	1.81
Bank holiday supplement 0.39 %	CHF	0.08
Further potential supplements	CHF	
<b>Total</b>	<b>CHF</b>	<b>23.59</b>

## 8. Are employers obliged to pay a 13th month's wage?

A 13th month's wage is not owed under the Minimum Wage Act. In other words, if a company pays a 13th month's wage, it may be converted to an hourly wage and added up. The hourly wage calculated in this way must then be CHF 21.70.

### Change in practice:

The Minimum Wage Act has a socio-political character and was introduced to protect against poverty and to ensure that living expenses are covered. For these reasons, it is necessary that the minimum wage is reached every month. If the 13th monthly salary is necessary to reach the minimum wage, it must be paid monthly (pro rata) with immediate effect so that it can be taken into account in the control period. During a transitional period until the end of 2024, the AWA will only issue a warning in cases where a violation is detected because the company pays the 13th monthly salary at the end of the year and will not refer the matter to the public prosecutor's office.

The calculation of the minimum wage per hour in companies with a 13th month's wage is based on the following formula:

$$\frac{21.70}{13} * 12 = 20.03$$

Since the minimum wage must be at least CHF 21.70, the result must never be rounded down. This means that currently at least an hourly wage of CHF 20.05 must be paid. In the event of future adjustments to the minimum wage as a result of indexation, the result may also not be rounded down.

The calculation of the minimum monthly wage in companies with a 13th monthly wage is done according to the following formula:

$$\frac{(13th\ Month's\ wage / 12) + monthly\ wage}{Weekly\ working\ time * 52/12} \geq CHF\ 21.70$$


Should employees and employers be covered by a generally binding collective labour agreement, then the Minimum Wage Act does not apply to them (see question 3). In this case the minimum wage and whether a 13<sup>th</sup> month's wage is to be paid is determined by the collective labour agreement. Most collective agreements provide for a 13th month's wage. Further information can be found at: [Generally binding collective labour agreements at State Secretariat for Economic Affairs SECO](#).

## 9. Examples of correct or incorrect payroll accounting

### Examples:


A 26-year-old, hourly-paid employee receives the following pay slip:

January 2024: 180 hrs. at CHF	CHF	3'960.—
22.—		

 Inadmissible, the employer has failed to comply with the minimum wage and risks paying the holiday component twice.


A 26-year-old, hourly-paid employee receives the following pay slip:

January 2024: 180 hrs. at CHF 19.—	CHF	3'420.—
Holiday supp: 8.33% 180 hrs. at CHF 1.58	CHF	284.40
<b>Total</b>	<b>CHF</b>	<b>3'704.40</b>

 Inadmissible, the minimum wage has not been reached; the holiday supplement must be paid in addition.


A 26-year-old, hourly-paid employee receives the following pay slip:

January 2024: 180 hrs. at CHF 19.—	CHF	3'420.—
Holiday supp: 8.33% 180 hrs. at CHF 1.58	CHF	284.40
13th month's wage share: 180 hrs. at CHF 1.58	CHF	284.40
<b>Total</b>	<b>CHF</b>	<b>3'988.80</b>

 Dually inadmissible, the minimum wage is not reached despite a share of the 13th month's wage and the holiday supplement is not taken into account in the 13th month's wage. And neither the bank holiday supplement.


A 26-year-old, hourly-paid employee receives the following pay slip:

January 2024: 180 hrs. at CHF 20.05	CHF	3'609.—
Holiday supp: 8.33% 180 hrs. at CHF 1.67	CHF	300.60
Bank holiday supp: 0,39% 180 hrs. at CHF 0.08	CHF	14.40
13th month's wage share: 180 hrs. at CHF 1.82	CHF	327.60
<b>Total</b>	<b>CHF</b>	<b>4'251.60</b>

 Proper wage slip: Minimum wage has been reached, holiday supplement and 13th month's wage share have been correctly calculated.

A 26-year-old, hourly-paid employee receives the following pay slip:

January 2024: 180 hrs. at CHF 20.05	CHF	3'609.—
Holiday supp: 8.33% 180 hrs. at CHF 1.67	CHF	300.60
Bank holiday supp: 0.39% 180 hrs. at CHF 0.08	CHF	14.40
Night supplement: 25% 20 hrs. at CHF 5.01	CHF	100.20
Sunday supplement: 50% 8 hrs. at CHF 10.02	CHF	80.16
Subtotal	CHF	4'104.36
13th month's wage share: 8.33% of CHF 4'104.36	CHF	341.95
<b>Total</b>	<b>CHF</b>	<b>4'446.05</b>

 Proper wage slip: Minimum wage has been reached, holiday supplement correctly calculated, 13th month wage share correctly calculated, statutory supplements have not been included in the minimum wage.

## 10. What applies to internships?

An internship as defined by the Minimum Wage Act is an employment relationship designed to last for a certain period of time, during which knowledge already acquired at school or yet to be acquired is deepened in practical application, whereby supervision and oversight of the work performance is necessary. The aim of an internship is to gain professional experience and train skills without imparting systematic and comprehensive education. The internship invariably has the nature of training. Employment contracts that are titled "internship" but do not pursue a training purpose are not considered an exception under the Minimum Wage Act, even if they last less than six months.

Internships of six months or less are not covered by the Minimum Wage Act. Provided that a signed apprenticeship contract or a confirmation of admission to a federally recognised higher education institution (tertiary A) or institution of higher education (tertiary B) is available after the six months, the internship may be extended to a maximum of 12 months without paying the minimum wage (§ 2 para. 2 lit. a MiLoG). In the case of sectoral and company internships with a prescribed training curriculum, the minimum wage also does not apply until the completion of the corresponding internship.

The confirmation of admission or the signed apprenticeship contract must be submitted before the beginning of the seventh month of an internship. Backdating will not be accepted by the inspection bodies.

In order for sectoral and company internships with a prescribed training curriculum to be considered internships within the definition of para. 1 and thus as an exception to the minimum wage, they must, in addition to the requirements of para. 1, be compulsory in the respective training plan and it must not be possible to obtain the corresponding qualification without completing such an internship (cf. section 2 para. 2 lit. a MiLoG). This applies both to internships undertaken within the scope of an apprenticeship, school, technical college, university or further education. Therefore, legal traineeships, for example, without which the bar exam cannot be obtained, are also considered to be industry internships. This means that internships for tertiary vocational training (to obtain the bar exam, etc.) can also last more than six months.

In summary, there are three types of traineeships

Internships up to 6 months	Requirement training nature
Extensions of internships up to 12 months	Requirement of training nature and signed apprenticeship contract or confirmation of admission to higher education institution
Sectoral and company internships	Requirement training nature and prescribed training curriculum of the corresponding sector

## 11. What applies to Au-pairs?

Au-pairs are exempt from the Minimum Wage Act (§ 2 para. 2 lit. e MiLoG). Au-pairs are young persons who live with a host family in order to learn a foreign language, look after children there and do light household work and receive appropriate compensation for this. They attend a language course in the national language spoken at the place of residence and may be required to work a maximum of 30 hours per week with one full day off per week.

## 12. How should the exemption from the Minimum Wage Act under section (§ 2 para. 2 lit. f MiLoG ("work on call")) be interpreted?

This exception is intended to relieve employers. They are given the opportunity to employ workers for up to 70 hours without paying the minimum wage.

The employment of 70 hours per calendar year applies to each employer. For example this means that workers can work 69 hours for employer A and 50 hours for employer B without the Minimum Wage Act being applicable.

Both non-genuine on-call work and genuine on-call work can fall under this exemption provision. Only the effectively performed assignments are relevant for the exemption. Periods in which there is no on-call work are not to be counted towards the 70 hours. However, depending on the structure of the employment contract, these are to be paid according to the rules on on-call duty laid down by the Federal Supreme Court and the Labour Code and its ordinances (see also question 18).

Employers who invoke this exemption must prove by means of work reports, pay slips or other suitable documents that the employment did not exceed 70 hours in the calendar year.

### **13. What is meant by exercising professional activity outside Swiss territory (§ 2 para. 2 lit. i MiLoG)?**

This exemption from the scope of application of the MiLoG covers employees who are employed in Switzerland or by companies in the canton of Basel-Stadt but work abroad. These are mainly river cruise companies. However, employees posted to Switzerland are not covered.

### **14. Who can claim occupational integration and consequently does not have to pay the minimum wage?**

Persons who participate in a state-subsidised social integration programme through the mediation of an authority as well as persons in measures of the disability insurance, the regional employment services or the social assistance do not have to receive the minimum wage.

Vocational integration also includes programmes that test aptitude, resilience, work training, etc. in the context of work integration or provide a daily structure in the context of social integration. It therefore makes sense to define the term occupational integration more precisely in the ordinance and to specify it more precisely so that it also includes social integration measures that may be of a gainful nature or whose content is usually provided for remuneration. Likewise, job-training companies as integration measures are not subject to the minimum wage.

Social non-profit organisations (workshops, associations for the disabled and similar) and "day structures with pay", e.g. for persons with an IV pension, are also considered integration measures, even if these persons have an employment contract. In these cases, their remuneration is paid in addition to the IV pension according to the individual's capacity.

Labour market measures of unemployment insurance, such as work experience and training internships, should also fall under this exemption rule. Measures of a temporary aptitude assessment or a training grant are also considered integration measures.

### **15. How is verified that the minimum wage is honoured?**

The Office of Economic Affairs and Labour has been carrying out regular inspections of employers since 1 January 2023. The employers must provide the inspectors with all documents proving compliance with the minimum wage.

The better documented employers are, the faster the inspections will be completed. Suitable documents for the proof of wages are lists summarising the employees' wages, employment contracts, work reports, pay slips, wage statements, receipts for additional payments such as bonuses, 13th month's wages, supplements, regulations, etc.

## **16. Who issues fines?**

Potential violations of the Minimum Wage Act must be reported to the Public Prosecutor's Office. Should the Public Prosecutor's Office find violations, they can impose fines ranging up to 30,000 Swiss francs.

## **17. Who must pay the minimum wage generally?**

The minimum wage applies to employees who usually perform their work in the Canton of Basel-Stadt. It does not apply to employees from outside the canton who carry out assignments in the canton of Basel-Stadt. Posted foreign employees must comply with the wages customary in the locality and the industry, which means that the cantonal minimum wage is owed as well (see also section 1).

## **18. What is meant by gainful employment?**

Gainful employment as defined by the law is any activity that is subject to the obligation to pay OASI (AHV) contributions.

This exemption becomes relevant from the 1st day on which OASI contributions are deducted from the salary, i.e. from 1 January of the year following the 17th birthday.

## **19. How to calculate the minimum wage when commission wages are paid?**

All wage components are taken into account when calculating the minimum wage. The minimum wage is intended to create wage security for all workers. Therefore, employers must ensure that the minimum wage is also reached on a monthly basis in the case of commission wages.

The portion of the wage exceeding the minimum wage is subject to contractual freedom. This means that an advance on wages paid to reach the minimum wage each month can be offset against the portion exceeding the minimum wage in the following month.

## **20. Does on-duty compensation count towards the minimum wage?**

Supplements (e.g. night work supplements) prescribed by the Labour Code must be paid in addition to the minimum wage. Voluntary supplements may be counted towards the minimum wage.

## **21. How is the minimum wage calculated in the case of lump-sum compensation with an on-call component?**

In the case of on-call assignments, the hours actually worked are to be compensated at the full rate of pay, i.e. the minimum wage is owed in full for this portion of the working hours. The jurisdiction of the Federal Supreme Court applies to on-call hours which means that the minimum wage is owed on a pro rata basis.

In the case of on-call duty on site, the Federal Supreme Court assumes that the full wage is owed for the entire period of presence, since the employee has no opportunity to attend to private matters. Thus, for such on-call services, the minimum wage would be owed for the entire working time, and the lump-sum compensation must at least reach the minimum wage. (see also question 9)



**Contact:**

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