

WHAT EMPLOYERS NEED TO KNOW ABOUT THE AMENDED NATIONAL MINIMUM WAGE



To recapitulate, the National Minimum Wage Act, 9 of 2018 (NMWA) provides for, among others, a national minimum wage; the review and annual adjustment of the national minimum wage; the establishment of a National Minimum Wage Commission; and lastly an exemption from paying the national minimum wage.

The *National Minimum Wage Act (NMWA)* came into effect on 1 January 2019. Its implementation in 2019 created much uncertainty and friction among all stakeholders affected by the NMWA. For the purpose of this blog, we have unpacked some of the elements of the amended national minimum wage as it is imperative that every employer understands the dynamics and core elements of the NMWA.

To whom does the NMWA apply?

The NMWA applies to all workers and their employers, except members of the South African National Defence Force, the National Intelligence Agency and the South African Secret Service, and volunteers who perform work for another person without remuneration. It applies to any person who works for another and who receives, or is entitled to receive, any payment for such work whether in money or in kind.

The amended National Minimum Wage

The Minister of Labour, in terms of section 6 (5) of the NMWA, recently amended the national minimum wage prescribed in schedules 1 and 2 of the NMWA, published under *Government Gazette No. 42060*, to be effective as of 1 March 2020 when the amendment shall become binding.

Furthermore, section 51(3) of the Basic Conditions of Employment Amendment Act, 75 of 1997 (BCEA), allows the Minister to increase wages as well as the remuneration and associated benefits based on those wages in the industry-specific Sectoral Determinations as of 1 March 2020.

The said amendment to the BCEA implies that any **industry-specific Sectoral Determination** that is below the amended national minimum wage per hour shall, as of 1 March 2020, be automatically increased to R20,76 or whichever rate is higher.

In terms of section 6(6) and schedule 1 of the NMWA, the following amendment shall be applicable as of 1 March 2020:

1. Subject to item 2, the national minimum wage is **R20,76 for each ordinary hour worked**.
2. Despite item 1–
 - (a) **farm workers** are entitled to a minimum wage of **R18,68 per hour**;
 - (b) **domestic workers** are entitled to a minimum wage of **R15,57 per hour**;

- (c) workers employed on an **expanded public works programme** are entitled to a minimum wage of **R11,42 per hour**;
- (d) workers who have **concluded learnership agreements**, as contemplated in section 17 of the Skills Development Act, 1998 (Act No. 97 of 1998), are entitled to the **allowances** as per schedule 2; and
- (e) **contract cleaning employees**, depending on the region of employment, shall be entitled to **R20,83**

(Area C), R22,84 (Area A) or R23,04 (Area B).

In addition, the Minister, has for the first time provided a detailed breakdown of some of the job categories that have been assigned specific minimum rates of pay to be applicable from 1 March 2020 as follows:

JOB CATEGORY	RATE PER HOUR (R p/h)
General Assistant/ Trolley Collector	20,76
Security Guard	20,76
Forklift Operator	20,76
Driver < 3500 KG	20,76
Merchandiser/ Shop Assistant/ Checker/ Deli Assistant	20,76
Cashier	22,97
Driver 3 501 < 9 000 kg	24,96
Clerk/ Sales Assistant/ Salesperson/ Blockman or -woman/ Baker	27,03
Driver 9 001 < 16 000 kg	27,17
Displayer	28,07
Driver 16 001 >	29,86
Supervisor	33,24
Trainee Manager	35,91
Assistant Manager	39,09
Manager	42,87

SERR Synergy assists employers in understanding all elements of new employment-related legislation, specifically the new National Minimum Wage Act. Our Labour Advisors do not only focus on the risks and negative commentary relating to new amendments but also on possible solutions in this regard. Our professional labour team provides employers with ideas and all forms of tools and possibilities so that they can continue to flourish despite numerous changes to the employment law landscape of South Africa.

About the Author: Jared Francis joined SERR Synergy in October 2016, and currently holds the title of KZN Labour Manager. He is an admitted attorney who has practised in KZN and Gauteng and has more than 10 years' experience in the legal and industrial relations field respectively. He holds an LLB degree, a Post-Graduate Diploma in Industrial Relations and a Post-Graduate Certificate in Forensic Investigation from the University of KwaZulu-Natal. He also holds Post-Graduate Certificates in Advanced Labour Law, Corporate Law, Advanced Human Resource Management and Health and Safety from UNISA. He is currently studying towards his MBA.

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